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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Microfilm Publication M892

RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA v. CARL KRAUCH ET AL. (CASE VI)

AUGUST 14, 1947-JULY 30, 1948

Roll 112

Other Items

Order and Judgment Books, Vols. 55 and 56



THE NATIONAL ARCHIVES
NATIONAL ARCHIVES AND RECORDS SERVICE
GENERAL SERVICES ADMINISTRATION

WASHINGTON: 1976

INTRODUCTION

On the 113 rolls of this microfilm publication are reproduced the records of Case VI, *United States of America v. Carl Krauch et al.* (I. G. Farben Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal (IMT) held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs and statements, and defendants' final pleas as well as prosecution and defense exhibits and document books in one language or the other. Also included are minute books, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 43 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. Prosecution statements and briefs are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. Unbound prosecution exhibits, numbered 1-2270 and 2300-2354, are essentially those documents from various Nuernberg record series, particularly the NI (Nuernberg Industrialist) Series, and other sources offered in evidence by the prosecution in this case. Defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically, along with two groups of exhibits submitted in the general interest of all defendants. Both prosecution and defense document books consist of full or partial translations of exhibits into English. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

Minute books, in two bound volumes, summarize the transcripts. The official court file, in nine bound volumes, includes the progress docket, the indictment, and amended indictment and the service thereof; applications for and appointments of defense counsel and defense witnesses and prosecution comments thereto; defendants' application for documents; motions and reports; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Defendants' clemency petitions, in three bound volumes, were directed to the military governor, the Judge Advocate General, and the U.S. District Court for the District of Columbia. The finding aids summarize transcripts, exhibits, and the official court file.

Case VI was heard by U.S. Military Tribunal VI from August 14, 1947, to July 30, 1948. Along with records of other Nuernberg

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and Far East war crimes trials, the records of this case are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The I. G. Farben Case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch et al.</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weissacker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the IMT against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943; Executive Order 9547 of May 2, 1945; the London Agreement of August 8, 1945; the Berlin Protocol of October 6, 1945; and the IMT Charter.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. Procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the IMT and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

Formation of the I. G. Farben Combine was a stage in the evolution of the German chemical industry, which for many years led the world in the development, production, and marketing of organic dyestuffs, pharmaceuticals, and synthetic chemicals. To control the excesses of competition, six of the largest chemical firms, including the Badische Anilin & Soda Fabrik, combined to form the Interessengemeinschaft (Combine of Interests, or Trust) of the German Dyestuffs Industry in 1904 and agreed to pool technological and financial resources and markets. The two remaining chemical firms of note entered the combine in 1916. In 1925 the Badische Anilin & Soda Fabrik, largest of the firms and already the majority shareholder in two of the other seven companies, led in reorganizing the industry to meet the changed circumstances of competition in the post-World War markets by changing its name to the I. G. Farbenindustrie Aktiengesellschaft, moving its home office from Ludwigshafen to Frankfurt, and merging with the remaining five firms.

Farben maintained its influence over both the domestic and foreign markets for chemical products. In the first instance the German explosives industry, dependent on Farben for synthetically produced nitrates, soon became subsidiaries of Farben. Of particular interest to the prosecution in this case were the various agreements Farben made with American companies for the exchange of information and patents and the licensing of chemical discoveries for foreign production. Among the trading companies organized to facilitate these agreements was the General Anilin and Film Corp., which specialized in photographic processes. The prosecution charged that Farben used these connections to retard the "Arsenal of Democracy" by passing on information received to the German Government and providing nothing in return, contrary to the spirit and letter of the agreements.

Farben was governed by an Aufsichtsrat (Supervisory Board of Directors) and a Vorstand (Managing Board of Directors). The Aufsichtsrat, responsible for the general-direction of the firm, was chaired by defendant Krauch from 1940. The Vorstand actually controlled the day-to-day business and operations of Farben. Defendant Schmitz became chairman of the Vorstand in 1935, and 18 of the other 22 original defendants were members of the Vorstand and its component committees.

Transcripts of the I. G. Farben Case include the indictment of the following 24 persons:

Otto Ambros: Member of the Vorstand of Farben; Chief of Chemical Warfare Committee of the Ministry of Armaments and War Production; production chief for Buna and poison gas; manager of Auschwitz, Schkopau, Ludwigshafen, Oppau, Gendorf, Dyhernfurth, and Falkenhagen plants; and Wehrwirtschaftsfuehrer.

Max Brueggemann: Member and Secretary of the Vorstand of Farben; member of the legal committee; Deputy Plant Leader of the Leverkusen Plant; Deputy Chief of the Sales Combine for Pharmaceuticals; and director of the legal, patent, and personnel departments of the Works Combine, Lower Rhine.

Ernst Buerger: Member of the Vorstand of Farben; Chief of Works Combine, Central Germany; Plant Leader at the Bitterfeld and Wolfen-Farben plants; and production chief for light metals, dyestuffs, organic intermediates, plastics, and nitrogen at these plants.

Heinrich Bueteftisch: Member of the Vorstand of Farben; manager of Leuna plants; production chief for gasoline, methanol, and chlorine electrolysis production at Auschwitz and Moosbierbaum; Wehrwirtschaftsfuehrer; member of the Himmler Freundeskreis (circle of friends of Himmler); and SS Obersturmbannfuehrer (Lieutenant Colonel).

Walter Duerrfeld: Director and construction manager of the Auschwitz plant of Farben, director and construction manager of the Monowitz Concentration Camp, and Chief Engineer at the Leuna plant.

Fritz Gajewski: Member of the Central Committee of the Vorstand of Farben, Chief of Sparte III (Division III) in charge of production of photographic materials and artificial fibers, manager of "Agfa" plants, and Wehrwirtschaftsfuehrer.

Heinrich Gattineau: Chief of the Political-Economic Policy Department, "WIPO," of Farben's Berlin N.W. 7 office; member of Southeast Europe Committee; and director of A.G. Dynamit Nobel, Pressburg, Czechoslovakia.

Paul Haeftiger: Member of the Vorstand of Farben; member of the Commercial Committee; and Chief, Metals Departments, Sales Combine for Chemicals.

Erich von der Heyde: Member of the Political-Economic Policy Department of Farben's Berlin N.W. 7 office, Deputy to the Chief of Intelligence Agents, SS Hauptsturmfuehrer, and member of the WI-RUE-AMT (Military Economics and Armaments Office) of the Oberkommando der Wehrmacht (OKW) (High Command of the Armed Forces).

Heinrich Hoerlein: Member of the Central Committee of the Vorstand of Farben; chief of chemical research and development of vaccines, sera, pharmaceuticals, and poison gas; and manager of the Elberfeld Plant.

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Max Ilgner: Member of the Vorstand of Farben; Chief of Farben's Berlin N.W. 7 office directing intelligence, espionage, and propaganda activities; member of the Commercial Committee; and Wehrwirtschaftsfuehrer.

Friedrich Jaehne: Member of the Vorstand of Farben; chief engineer in charge of construction and physical plant development; Chairman of the Engineering Committee; and Deputy Chief, Works Combine, Main Valley.

August von Knieriem: Member of the Central Committee of the Vorstand of Farben; Chief Counsel of Farben; and Chairman, Legal and Patent Committees.

Carl Krauch: Chairman of the Aufsichtsrat of Farben and Generalbevollmaechtigter fuer Sonderfragen der Chemischen Erzeugung (General Plenipotentiary for Special Questions of Chemical Production) on Goering's staff in the Office of the 4-Year Plan.

Hans Kuehne: Member of the Vorstand of Farben; Chief of the Works Combine, Lower Rhine; Plant Leader at Leverkusen, Elberfeld, Uerdingen, and Dormagen plants; production chief for inorganics, organic intermediates, dyestuffs, and pharmaceuticals at these plants; and Chief of the Inorganics Committee.

Hans Kugler: Member of the Commercial Committee of Farben; Chief of the Sales Department Dyestuffs for Hungary, Rumania, Yugoslavia, Greece, Bulgaria, Turkey, Czechoslovakia, and Austria; and Public Commissar for the Falkenau and Aussig plants in Czechoslovakia.

Carl Lautenschlaeger: Member of the Vorstand of Farben; Chief of Works Combine, Main Valley; Plant Leader at the Hoechst, Griesheim, Mainkur, Gersthofen, Offenbach, Eystrop, Marburg, and Neuhausen plants; and production chief for nitrogen, inorganics, organic intermediates, solvents and plastics, dyestuffs, and pharmaceuticals at these plants.

Wilhelm Mann: Member of the Vorstand of Farben, member of the Commercial Committee, Chief of the Sales Combine for Pharmaceuticals, and member of the SA.

Fritz ter Meer: Member of the Central Committee of the Vorstand of Farben; Chief of the Technical Committee of the Vorstand that planned and directed all of Farben's production; Chief of Sparte II in charge of production of Buna, poison gas, dyestuffs, chemicals, metals, and pharmaceuticals; and Wehrwirtschaftsfuehrer.

Heinrich Oster: Member of the Vorstand of Farben, member of the Commercial Committee, and manager of the Nitrogen Syndicate.

Hermann Schmitz: Chairman of the Vorstand of Farben, member of the Reichstag, and Director of the Bank of International Settlements.

Christian Schneider: Member of the Central Committee of the Vorstand of Farben; Chief of Sparte I in charge of production of nitrogen, gasoline, diesel and lubricating oils, methanol, and organic chemicals; Chief of Central Personnel Department, directing the treatment of labor at Farben plants; Wehrwirtschaftsfuehrer; Hauptabwehrbeauftragter (Chief of Intelligence Agents); Hauptbetriebsfuehrer (Chief of Plant Leaders); and supporting member of the Schutzstaffeln (SS) of the NSDAP.

Georg von Schnitzler: Member of the Central Committee of the Vorstand of Farben, Chief of the Commercial Committee of the Vorstand that planned and directed Farben's domestic and foreign sales and commercial activities, Wehrwirtschaftsfuehrer (Military Economy Leader), and Hauptsturmfaehrer (Captain) in the Sturmabteilungen (SA) of the Nazi Party (NSDAP).

Carl Wurster: Member of the Vorstand of Farben; Chief of the Works Combine, Upper Rhine; Plant Leader at Ludwigs-hafen and Oppau plants; production chief for inorganic chemicals; and Wehrwirtschaftsfuehrer.

The prosecution charged these 24 individual staff members of the firm with various crimes, including the planning of aggressive war through an alliance with the Nazi Party and synchronization of Farben's activities with the military planning of the German High Command by participation in the preparation of the 4-Year Plan, directing German economic mobilization for war, and aiding in equipping the Nazi military machines.¹ The defendants also were charged with carrying out espionage and intelligence activities in foreign countries and profiting from these activities. They participated in plunder and spoliation of Austria, Czechoslovakia, Poland, Norway, France, and the Soviet Union as part of a systematic economic exploitation of these countries. The prosecution also charged mass murder and the enslavement of many thousands of persons particularly in Farben plants at the Auschwitz and Monowitz concentration camps and the use of poison gas manufactured by the firm in the extermination

¹The trial of defendant Brueggemann was discontinued early during the proceedings because he was unable to stand trial on account of ill health.

of millions of men, women, and children. Medical experiments were conducted by Farben on enslaved persons without their consent to test the effects of deadly gases, vaccines, and related products. The defendants were charged, furthermore, with a common plan and conspiracy to commit crimes against the peace, war crimes, and crimes against humanity. Three defendants were accused of membership in a criminal organization, the SS. All of these charges were set forth in an indictment consisting of five counts.

The defense objected to the charges by claiming that regulations were so stringent and far reaching in Nazi Germany that private individuals had to cooperate or face punishment, including death. The defense claimed further that many of the individual documents produced by the prosecution were originally intended as "window dressing" or "howling with the wolves" in order to avoid such punishment.

The tribunal agreed with the defense in its judgment that none of the defendants were guilty of Count I, planning, preparation, initiation, and waging wars of aggression; or Count V, common plans and conspiracy to commit crimes against the peace and humanity and war crimes.

The tribunal also dismissed particulars of Count II concerning plunder and exploitation against Austria and Czechoslovakia. Eight defendants (Schmitz, von Schnitzler, ter Meer, Buergin, Haeffliger, Ilgner, Oster, and Kugler) were found guilty on the remainder of Count II, while 15 were acquitted. On Count III (slavery and mass murder), Ambros, Bueteftisch, Duerrfeld, Krauch, and ter Meer were judged guilty. Schneider, Bueteftisch, and von der Heyde also were charged with Count IV, membership in a criminal organization, but were acquitted.

The tribunal acquitted Gajewski, Gattineau, von der Heyde, Hoerlein, von Knieriem, Kuehne, Lautenschlaeger, Mann, Schneider, and Wurster. The remaining 13 defendants were given prison terms as follows:

<u>Name</u>	<u>Length of Prison Term (years)</u>
Ambros	8
Buergin	2
Bueteftisch	6
Duerrfeld	8
Haeffliger	2
Ilgner	3
Jaehne	1 1/2
Krauch	6
Kugler	1 1/2
Oster	2
Schmitz	4
von Schnitzler	5
ter Meer	7

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All defendants were credited with time already spent in custody.

In addition to the indictments, judgments, and sentences, the transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty) and opening statements of both defense and prosecution.

The English-language transcript volumes are arranged numerically, 1-43, and the pagination is continuous, 1-15834 (page 4710 is followed by pages 4710(1)-4710(285)). The German-language transcript volumes are numbered 1a-43a and paginated 1-16224 (14a and 15a are in one volume). The letters at the top of each page indicate morning, afternoon, or evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Two commission hearings are included in the transcripts: that for February 7, 1948, is on pages 6957-6979 of volume 20 in the English-language transcript, while that for May 7, 1948, is on pages 14775a-14776 of volume 40a in the German-language transcript. In addition, the prosecution made one motion of its own and, with the defense, six joint motions to correct the English-language transcripts. Lists of the types of errors, their location, and the prescribed corrections are in several volumes of the transcripts as follows:

- First Motion of the Prosecution, volume 1
- First Joint Motion, volume 3
- Second Joint Motion, volume 14
- Third Joint Motion, volume 24
- Fourth Joint Motion, volume 29
- Fifth Joint Motion, volume 34
- Sixth Joint Motion, volume 40

The prosecution offered 2,325 prosecution exhibits numbered 1-2270 and 2300-2354. Missing numbers were not assigned due to the difficulties of introducing exhibits before the commission and the tribunal simultaneously. Exhibits 1835-1838 were loaned to an agency of the Department of Justice for use in a separate matter, and apparently No. 1835 was never returned. Exhibits drew on a variety of sources, such as reports and directives as well as affidavits and interrogations of various individuals. Maps and photographs depicting events and places mentioned in the exhibits are among the prosecution resources, as are publications, correspondence, and many other types of records.

The first item in the arrangement of prosecution exhibits is usually a certificate giving the document number, a short description of the exhibits, and a statement on the location of the original document or copy of the exhibit. The certificate is followed by the actual prosecution exhibit (most are photostats,

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but a few are mimeographed articles with an occasional carbon of the original). The few original documents are often affidavits of witnesses or defendants, but also ledgers and correspondence, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
322	NI 5140	1558	NI 11411
918	NI 6647	1691	NI 12511
1294	NI 14434	1833	NI 12789
1422	NI 11086	1886	NI 14228
1480	NI 11092	2313	NI 13566
1811	NI 11144		

In rare cases an exhibit is followed by a translation; in others there is no certificate. Several of the exhibits are of poor legibility and a few pages are illegible.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, Reichsgesetzblatt excerpts, photographs, and other items. The 4,257 exhibits for the 23 defendants are arranged by name of defendant and thereunder by exhibit number. Individual exhibits are preceded by a certificate wherever available. Two sets of exhibits for all the defendants are included.

Translations in each of the prosecution document books are preceded by an index listing document numbers, biased descriptions, and page numbers of each translation. These indexes often indicate the order in which the prosecution exhibits were presented in court. Defense document books are similarly arranged. Each book is preceded by an index giving document number, description, and page number for every exhibit. Corresponding exhibit numbers generally are not provided. There are several unindexed supplements to numbered document books. Defense statements, briefs, pleas, and prosecution briefs are arranged alphabetically by defendant's surname. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

At the beginning of roll 1 key documents are filmed from which Tribunal VI derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the IMT Charter, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of members of the tribunal and counsels. These are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by the minute book, consisting of summaries of the daily proceedings, thus providing an additional finding aid for the transcripts. Exhibits are listed in an index that notes the

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type, number, and name of exhibit; corresponding document book, number, and page; a short description of the exhibit; and the date when it was offered in court. The official court file is summarized by the progress docket, which is preceded by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of the English-language document books.

The records of the I. G. Farben Case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the IMT, T988; NI (Nuernberg Industrialist) Series, T301; NM (Nuernberg Miscellaneous) Series, M-936; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; NP (Nuernberg Propaganda) Series, M942; WA (undetermined) Series, M946; and records of the Brandt case, M887; the Milch Case, M888; the Altstoetter case, M889; the Pohl Case, M890; the Flick Case, M891; the List case, M893; the Greifelt case, M894; and the Ohlendorf case, M895. In addition, the record of the IMT at Nuernberg has been published in the 42-volume *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947). Excerpts from the subsequent proceedings have been published in 15 volumes as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (Washington). The Audiovisual Archives Division of the National Archives and Records Service has custody of motion pictures and photographs of all 13 trials and sound recordings of the IMT proceedings.

Martin K. Williams arranged the records and, in collaboration with John Mendelsohn, wrote this introduction.

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Roll 112

Target 1

Order and Judgment Book

Volume 55

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NURNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 55**

ORDER AND JUDGMENT BOOK

**Court Orders
Judgment and Sentences, Eng**

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Nurnberg, Germany

Case No. VI.

Military Tribunal

Carl KRAUCH and others

ORDER APPOINTING DEFENSE COUNSEL

Dr. Walter Duerrfeld, one of the above-named defendants, having requested this Tribunal that Dr. Alfred Seidl, whose address is Nurnberg, Maximilianstr. 34/III, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Alfred Seidl be, and he hereby is, approved as attorney for said Dr. Walter Duerrfeld to represent him with respect to the charges pending against him under the indictment filed herein.

Dated 19 May 1947

Robert M. Louis
Executive Presiding Judge

Form MT No-1
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MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Carl KRAUCH and others

Nuernberg, Germany

Case No. VI.

Mil. Tribunal

ORDER APPOINTING DEFENSE COUNSEL

Heinrich Gattineau, one of the above-named defendants, having requested this Tribunal that Dr. Rudolf Aschenauer whose address is Nurnberg, Palace of Justice, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Rudolf Aschenauer do, and he hereby is, approved as attorney for said Heinrich Gattineau to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 May 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case No. VI.

Against

Mil. Tribunal

Carl KRAUCH and others

ORDER APPOINTING DEFENSE COUNSEL

Dr. Erich Von Der Heyde, one of the above-named defendants, having requested this Tribunal that Dr. Karl Hoffmann, whose address is Nurnberg, Palace of Justice, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Karl Hoffmann be, and he hereby is, approved as attorney for said Dr. Erich Von Der Heyde to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 May 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

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MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nurnberg, Germany

Case No. VI.

Against

Mil. Tribunal

Carl KRAUCH and others

ORDER APPOINTING DEFENSE COUNSEL

Heinrich Hoerlein, one of the above-named defendants, having requested this Tribunal that **Dr. Fritz Sauter** whose address is **Nurnberg, Palace of Justice**, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said **Dr. Fritz Sauter** be, and he hereby is, approved as attorney for said **Heinrich Hoerlein** to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 May 1947

Peters M. Louis
Executive Presiding Judge

Form MT No-1

~~MILITARY~~ TRIBUNALS
UNITED STATES OF AMERICA

Nurnberg, Germany

Case No. VI.

Against

Mil. Tribunal

Carl KRAUCH and others

ORDER APPOINTING DEFENSE COUNSEL

Dr. Hans Kugler, one of the above-named defendants, having requested this Tribunal that Dr. Helmut Hense whose address is Nurnberg, Palace of Justice, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Helmut Hense be, and he hereby is, approved as attorney for said Dr. Hans Kugler to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 May 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

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MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Carl KHAUCH and others

Nurnberg, Germany

Case No. VI.

Mil. Tribunal

ORDER APPOINTING DEFENSE COUNSEL

Carl Ludwig Lautenschlaeger, one of the above-named defendants, having requested this Tribunal that Dr. Fritz Sauter whose address is Nurnberg, Justice of Peace, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Fritz Sauter, and he hereby is, approved as attorney for said Carl Ludwig Lautenschlaeger to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 May 1947

Executive

Robert M. Jones
Presiding Judge

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MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Muenberg, Germany

Case No. VI.

Against

Mil. Tribunal _____

Carl KRAUCH and others

ORDER APPOINTING DEFENSE COUNSEL

Wilhelm Mann, one of the above-named defendants, having requested this Tribunal that **Dr. Erich Berndt** whose address is **Frankfurt-Main, Steintestr. 11**, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said **Dr. Erich Berndt**, and he hereby is, approved as attorney for said **Wilhelm Mann** to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 May 1947

Executive

Robert M. Jones
Presiding Judge

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MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case No. VI

Against

Mil. Tribunal

Carl KRAUCH and others

ORDER APPOINTING DEFENSE COUNSEL

Fritz Ter Meer, one of the above-named defendants, having requested this Tribunal that **Dr. Erich Berndt**, whose address is **Frankfurt-Main, Steins Str. 11**, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said **Dr. Erich Berndt** be, and he hereby is, approved as attorney for said **Fritz Ter Meer** to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 May 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nurnberg, Germany

Case No. VI.

Against

Mil. Tribunal

Carl KRAUCH and others

ORDER APPOINTING EXPRESS COUNSEL

Heinrich Oster, one of the above-named defendants, having requested this Tribunal that Rechtsanwalt Helmut Henze, whose address is Nurnberg, Wielandstr. 11, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Rechtsanwalt Helmut Henze do, and he hereby is, approved as attorney for said Heinrich Oster to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 May 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

~~MILITARY~~ TRIEBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case No. VI.

Against

Mil. Tribunal _____

Carl KRAUCH _____ and others

ORDER APPOINTING DEFENSE COUNSEL

Georg Von Schnitzler _____, one of the above-named defendants, having requested this Tribunal that Dr. Walter Siemers _____ whose address is Nuernberg, Palace of Justice _____, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Walter Siemers _____ be, and he hereby is, approved as attorney for said Georg Von Schnitzler _____ to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 May 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

11

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, MUNICH, GERMANY
19 MAY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the questioning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Heinrich Hoerlein	Eberhardt Gross	Granted

Robert M. Jones
Executive Presiding Judge

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Krauch and others

12
Munich, Germany

Case No. 6

Mil. Tribunal

ORDER APPOINTING DEFENSE COUNSEL

Bueteufisch, one of the above-named defendants, having requested this Tribunal that Dr. Hans Flaechner whose address is Berlin-Friedenau, Mainauerstr. 2, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Hans Flaechner be, and he hereby is, approved as attorney for said Bueteufisch to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 21 May 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against

Nuernberg, Germany
Case No. 6
Mil. Tribunal

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

August von Knieriem, one of the above-named defendants, having requested this Tribunal that Dr. Horst Pelckmann whose address is Nuernberg, Solgerstr. 22, be entered and approved on the records of Military Tribunals as his lawful attorney,

It is ORDERED that the said Dr. Horst Pelckmann be, and he hereby is, approved as attorney for said August von Knieriem to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 31 May 1947


Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Nuernberg, Germany

Case No. 6

Mil. Tribunal

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Hermann Schmitz, one of the above-named defendants, having requested this Tribunal that Dr. Otto Krensbuehler whose address is Nuernberg, Palace of Justice, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Otto Krensbuehler be, and he hereby is, approved as attorney for said Hermann Schmitz to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 21 May 1947

Robert M. Lewis
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case No. 6

Against

Mil. Tribunal Karl Krauch

and others

ORDER APPOINTING DEFENSE COUNSEL

Heinrich Hoerlein, one of the above-named defendants, having requested this Tribunal that Dr. Dr. Otto Nelte whose address is Maximilianstr. 27, Nurnberg, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Dr. Otto Nelte be, and he hereby is, approved as attorney for said Heinrich Hoerlein to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: *26 May 1947*

Peters M. Louis
Eganston Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against

16
Nuernberg, Germany
Case No. 6
Mil. Tribunal

Karl Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Carl Ludwig Lautenschlaeger, one of the above-named defendants, having requested this Tribunal that Dr. Hans Pribilla whose address is Nuernberg-Moegldorf, Tiefaeckerstr. 5 be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Hans Pribilla do, and he hereby is, approved as attorney for said Carl Ludwig Lautenschlaeger to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: *26 May 1947*

Robert M. Louis
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Muenberg, Germany

Case No. 6

Mil. Tribunal

Karl Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Friedrich Jaehne, one of the above-named defendants, having requested this Tribunal that Dr. Oskar Krauss whose address is Muenberg, Krugstr. 75, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Oskar Krauss be, and he hereby is, approved as attorney for said Friedrich Jaehne to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 27 May 1947

Peters M. Jones
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case No. 6

Against

Mil. Tribunal

Krauch

and others

ORDER APPOINTING DEFENSE COUNSEL

Paul Haeffliger, one of the above-named defendants, having requested this Tribunal that Dr. Walter Vinassa whose address is Bern, Switzerland, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Walter Vinassa be, and he hereby is, approved as attorney for said Paul Haeffliger to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 29 May 1948

Robert M. Jones
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Carl KRAUCH and others

Essen, Germany

Case No. VI.

Mil. Tribunal

ORDER APPOINTING DEFENSE COUNSEL

Hans Kuehne, one of the above-named defendants, having requested this Tribunal that Dr. Gunther Lummert whose address is Furth, Konigsplatzstr. 70, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Gunther Lummert be, and he hereby is, approved as attorney for said Hans Kuehne to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 2 June 1947

Robert M. Louis
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case No. 6

Against

Mil. Tribunal

Krauch and others

ASSISTANT
ORDER APPOINTING DEFENSE COUNSEL

Dr. Rudolf Aschenauer, defense counsel for
Heinrich Gattineau, one of the above-named defendants,
having requested this Tribunal that Dr. Helmut Duerr
whose address is Palace of Justice, be en-
tered and approved on the records of Military Tribunals as his
~~executive~~ assistant,

IT IS ORDERED that the said Dr. Helmut Duerr be,
and he hereby is, approved as ~~assistant~~ ^{assistant} for said Heinrich
Gattineau to represent him with respect to the charges
pending against him under the indictment filed herein.

Dated: 5 June 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Munich, Germany

Case No. 6

Against

Mil. Tribunal

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Fritz Gajewski, one of the above-named defendants, having requested this Tribunal that Dr. Ernst Achenbach whose address is Essen, Zweigertstr. 34, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Ernst Achenbach be, and he hereby is, approved as attorney for said Fritz

Gajewski to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 10 June 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

~~MILITARY~~ TRIBUNALS
UNITED STATES OF AMERICA

Munich, Germany

Case No. VI.

Against

Mil. Tribunal

Carl KRAUCH and others.

ORDER APPOINTING DEFENSE COUNSEL

Dr. Max Ilgner, one of the above-named defendants, having requested this Tribunal that Dr. Hans Laternser whose address is Wiesbaden, Schuetzenstr. 14, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Hans Laternser be, and he hereby is, approved as attorney for said Dr. Max Ilgner to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 10 June 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Munich, Germany

Case No. 6

Against

Mil. Tribunal

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Carl Krauch, one of the above-named defendants, having requested this Tribunal that Dr. Conrad Boettcher whose address is Stuttgart-Degerloch, Jahnstr. 84, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Conrad Boettcher do, and he hereby is, approved as attorney for said Carl Krauch to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 10 June 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case No. VI.

Against

Military Tribunal

Carl KAUCH and others

ORDER APPOINTING DEFENSE COUNSEL

Otto Ambros, one of the above-named defendants, having requested this Tribunal that Dr. Fritz Drischel, whose address is Freiburg/Breisgau, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Fritz Drischel be, and he hereby is, approved as attorney for said Otto Ambros to represent him with respect to the charges pending against him under the indictment filed herein.

Dated 11 June 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1
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MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. _____

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Horst Pelckmann, counsel for August von Knieriem one of the above-named defendants, having requested this Tribunal that Friedrich Silcher, whose address is Berlin-Zehlendorf, Hermannstr. 2, be entered and approved on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Friedrich Silcher do, and he hereby is, approved as assistant attorney for said August von Knieriem to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 11 June 1947

Robert M. Jones
Executive Presiding Judge

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. _____

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Walter Siemers, counsel for von Schnitzler
one of the above-named defendants, having requested this Tribunal
that Dr. Rupprecht von Keller, whose address is
Palace of Justice, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Rupprecht von Keller be,
and he hereby is, approved as assistant attorney for said
von Schnitzler to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 16 June 1947

Robert M. Jones

Executive Presiding Judge

MILITARY TRIBUNALS

Muenberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

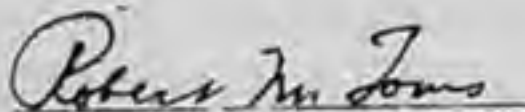
Tribunal No. Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Pribilla, counsel for Lautenschlaeger
 one of the above-named defendants, having requested this Tribunal
 that Dr. Helmut Eisenblaetter, whose address is
 Muenheim No. 20, Krs. Moerdlingen/Bay., be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Helmut Eisenblaetter be,
 and he hereby is, approved as assistant attorney for said
 Lautenschlaeger
 to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated: 18 June 1947



Executive Presiding Judge

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Krauch and others

Nuernberg, Germany

Case Number 6

Tribunal No.

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Helmut Henze, counsel for Oster
one of the above-named defendants, having requested this Tribunal
that Dr. Wolfgang Heintzeler, whose address is
Indwighshafen Rh., Brunckstr. 13, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Wolfgang Heintzeler be,
and he hereby is, approved as assistant attorney for said

Oster to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 16 June 1947

Robert M. Jones

Executive Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

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Muenberg, Germany

Case No. 6

Mil. Tribunal

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Christian Schneider, one of the above-named defendants, having requested this Tribunal that Dr. Hellmuth Dix whose address is Fischau, Ornachstr. 44, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Hellmuth Dix be, and he hereby is, approved as attorney for said Christian Schneider to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 16 June 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case No. 6

Against

Mil. Tribunal

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Dr. Brueggemann, one of the above-named defendants, having requested this Tribunal that Dr. Theodor Klefisch whose address is Koeln, Blumenthalstr. 23, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Theodor Klefisch be, and he hereby is, approved as attorney for said Dr. Brueggemann to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 19 June 1947

Robert M. Jones
Executive Presiding Judge

Form MT No-1

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
23 JUNE 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the production of the document herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunals as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Carl Krauch	Records of the interrogations of Dr. Carl Krauch and affi- davits of Dr. Carl Krauch	Denied

Robert M. Jones
Executive Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany
Case Number 6
Tribunal No.

Against
Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Erich Berndt, counsel for Fritz ter Meer
one of the above-named defendants, having requested this Tribunal
that Christian Tuerck, whose address is
Nuernberg, Maximilianstr. 25, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Christian Tuerck be,
and he hereby is, approved as assistant attorney for said

Fritz ter Meer to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 25 June 1947

Robert M. Jones
Executive Presiding Judge

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Krauch and others

Muenberg, Germany

Case Number 6

Tribunal No.

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Fritz Drischal, counsel for Otto Ambros

one of the above-named defendants, having requested this Tribunal that Dr. Gernot Gather, whose address is Freiburg/Br., Woelflinstr. 13, be entered and approved on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Gernot Gather be, and he hereby is, approved as assistant attorney for said Otto Ambros to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 27 June 1947

Robert M. Jones

Executive Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Krauch and others

Nuernberg, Germany

Case Number 6

Tribunal No. _____

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Walter Vinassa, counsel for Paul Haeffliger
one of the above-named defendants, having requested this Tribunal
that Dr. Wolfram von Metzler, whose address is
Hamburg, Brandstwiete 29, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Wolfram von Metzler be,
and he hereby is, approved as assistant attorney for said

Paul Haeffliger to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 27 June 1947

Robert M. Jones

Executive Presiding Judge

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. _____

Krauch and others

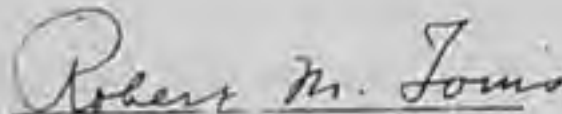
ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Hans Latenser, counsel for Max Ilgner, one of the above-named defendants, having requested this Tribunal that Dr. Walter Bachem, whose address is Frankfurt/Main, Boersenstr., be entered and approved on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Walter Bachem be, and he hereby is, approved as assistant attorney for said

Max Ilgner to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 27 June 1947



Executive Presiding Judge

~~MILITARY~~ TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case No. 6

Against

Mil. Tribunal

Krauch and others

ASST.
ORDER APPOINTING EXPENSE COUNSEL

Hans Kuehnle, one of the above-named defendants, having requested this Tribunal that Dr. Guenther Hindemith, whose address is Klardorf, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Guenther Hindemith be, and he hereby is, approved as ^{asst.} attorney for said Hans Kuehnle to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 27 June 1947

Robert M. Louis
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case Number 6

Against

Tribunal No. _____

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Henze, counsel for Kugler

one of the above-named defendants, having requested this Tribunal that Dr. Henrich von Rospatt, whose address is Friedrichsruhe, Kra. Oehringen, be entered and approved on the records of the Military Tribunal as his assistant,

IT IS ORDERED that the said Dr. Henrich von Rospatt be, and he hereby is, approved as assistant attorney for said

Kugler to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 27 June 1947

Robert M. Jones

Executive Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case Number 6

Tribunal No.

Against

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Otto Kransbuehler, counsel for Hermann Schmitz
one of the above-named defendants, having requested this Tribunal
that Hanns Gierlichs, whose address is
Leverkusen/Rhein, Kaiser Wilhelm Allee 3, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Hanns Gierlichs be,
and he hereby is, approved as assistant attorney for said

Hermann Schmitz to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 27 June 1947

Robert M. Jones

Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
HELD 3 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA	:	
- vs. -	:	<u>CRIME</u>
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

Upon due consideration of the petition of Dr. Conrad Boettcher, attorney for defendant Krauch,

IT IS ORDERED that, because of the limited physical facilities in both the court room and Defense Information Center, ~~and for other reasons~~, said petition be denied, with leave, however, to ask for reconsideration of said petition by the Tribunal to which this cause is ultimately assigned for trial.

Robert M. Jones
Executive Presiding Judge

APPROVED:

Walter B. Beals
Presiding Judge, Tribunal I

J. Brand
Presiding Judge, Tribunal III

Charles H. Sears
Presiding Judge, Tribunal IV

Charles H. Wommersley
Presiding Judge, Tribunal V

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
8 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Christian Schneider	Herr Fendel-Sartorius	Denied
Christian Schneider	Herr Dr. Schaumburg	Denied
Georg von Schnitzler	Herrmann Schwab	Denied

Robert M. Louis
Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
8 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA
- vs. -
CARL KRAUCH, et al.,
Defendants.

ORDER
Case No. 6

On considering the application of the defendant Heinrich Gattineau for the summoning of the witness Dr. Heinrich Bruening, Harvard University,

IT IS ORDERED that said application be approved for interrogatory or deposition only.

Robert M. Jones
Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
8 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :
 :
 - vs. - :
 :
 CARL KRAUCH, et al., :
 :
 Defendants. :

ORDER
Case No. 6

On considering the application of the defendant Heinrich Gattineau for the summoning of the witness Dr. Kurt Freiherr von Lerener,

IT IS ORDERED that said application be approved for interrogation only, and denied as to summons, without prejudice.

Robert M. Jones
Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
9 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the production of the document herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Fritz Ter Meer	Session transcripts of the TEA from 1933 to 1935 inclusive	Granted

Robert M. Jones
Executive Presiding Judge

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UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
14 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the production of the respective documents herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunals as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Wilhelm Mann	Agreement of the IG with the Societe des Usines Chimiques Rhone - Poulenc	Granted
Fritz Ter Meer	Prancolor-agreement of 18 November 1941	Granted
Fritz Ter Meer	Dr. Ter Meer's affidavit of April 1947 re the Prancolor-agreement	Granted
Fritz Ter Meer	Periodical "Petroleum Times" of 25 December 1943	Granted

Robert M. Jones
Executive Presiding Judge

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Carl Krauch and others

Nuernberg, Germany

Case No. 6

Mil. Tribunal

ORDER APPOINTING DEFENSE COUNSEL

Ernst Buergin, one of the above-named defendants, having requested this Tribunal that Dr. Werner Schubert whose address is Nuernberg, Fuertherstr. 160, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Werner Schubert be, and he hereby is, approved as attorney for said Ernst Buergin to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 16 July 1947

Robert M. Louis
Executive Presiding Judge

Form MT No-1

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
18 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the production of the document herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunals as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Fritz Ter Meer	TEA Meeting Reports from 1936 with 1939	Granted

Robert M. Jones
Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURENBERG, GERMANY
18 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the production of the document herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunals as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Fritz Ter Meer	TRA Meeting Reports from 1936 with 1939	Granted

Robert M. Jones
Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
18 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the defendant
Heinrich Gattineau for the summoning of

Ernst Hackhofer

Professor Hermann Hummel

Director Dr. Oskar Schmid

Treviranus

Wrich Wintersberger

IT IS ORDERED that said applications be granted for
interrogatory or deposition only.

Robert M. Jones
Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
21 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :
 :
 - vs. - :
 :
 CARL KRAUCH, et al., :
 :
 Defendants. :

ORDER
Case No. 6

On considering the applications of the defendant below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunals as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Christian Schneider	Fandel-Sartorius	Denied
Christian Schneider	Dr. Giessen	Denied
Christian Schneider	Dr. Schaumburg	Denied

Robert M. Jones
Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
21 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant Carl Lautenschlaeger for the summoning of the witness Dr. Julius Weber,

IT IS ORDERED that said application be approved for interrogation only, and denied as to summons, without prejudice.

Robert M. Louis
Executive Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against

Muernberg, Germany
Case Number 6
Tribunal No. _____

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Hans Flaechner, counsel for Heinrich Buetafisch
one of the above-named defendants, having requested this Tribunal
that Dr. Heinz Reintges, whose address is
Krefeld, Suedwall 78, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Heinz Reintges be,
provisionally
and he hereby is approved as assistant attorney for said

Heinrich Buetafisch to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 23 July 1947

Robert M. Louis

Executive Presiding Judge

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. _____

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Alfred Seidl, counsel for Walther Duerrfeld
one of the above-named defendants, having requested this Tribunal
that Heinz Trahandt, whose address is
Fuerth, Bahnhofplatz 1, be entered and approved
on the records of the Military Tribunal as his assistant,

IT IS ORDERED that the said Heinz Trahandt be,
provisionally
and he hereby is, approved as assistant attorney for said

Walther Duerrfeld to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 22 July 1947

Robert M. Jones

Executive Presiding Judge

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. _____

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Ernst Achenbach, counsel for Fritz Gajewski
one of the above-named defendants, having requested this Tribunal
that Dr. Carl Weyer, whose address is
Leverkusen/Koeln, Kaiser Wilh. Allee 3, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Carl Weyer be,
provisionally
and he hereby is, approved as assistant attorney for said
Fritz Gajewski to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 22 July 1947


Executive Presiding Judge

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. _____

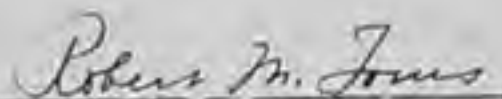
Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Conrad Boettcher, counsel for ^{Carl} Conrad Krauch
 one of the above-named defendants, having requested this Tribunal
 that Dr. Eduard Wahl, whose address is
 Heidelberg, Neckarstrasse 18, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Eduard Wahl be,
^{provisionally}
 and he hereby is, approved as assistant attorney for said
^{Carl}
~~Conrad~~ Krauch to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated: 22 July 1947



Executive Presiding Judge

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No.

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Guenther Lammert, counsel for Hans Kuehne
one of the above-named defendants, having requested this Tribunal
that Dr. Erna Kroen, whose address is
Leverkusen/Koeln, Kaiser Wilhelm Allee 3, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Erna Kroen be,
provisionally
and he hereby is, approved as assistant attorney for said

Hans Kuehne to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 22 July 1947

Robert M. Jones

Executive Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case No. 6

Against

Mil. Tribunal

Kraich and others

ORDER APPOINTING DEFENSE COUNSEL

Dr. Carl Wurster, one of the above-named defendants, having requested this Tribunal that Friedrich Wagner whose address is Ludwigshafen/Rh., Ludwigsplatz 1, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Friedrich Wagner be, **provisionally** and he hereby is, approved as attorney for said Carl Wurster to represent him with respect to the charges pending against him under the indictment filed hereto.

Dated: 23 July 1947

Robert M. Louis
Executive Presiding Judge

Form MT No-1

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
29 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :
 :
 - vs. - :
 :
 CARL KRAUCH, et al., :
 :
 Defendants. :

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the production of the document herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunals as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Christian Schneider	Interrogation and statements (Affidavits) of Dr. Christian Schneider	Denied

Robert M. Jones
Executive Presiding Judge

FILED *2 August 1947* with
Secretary General
for Military Tribunals

UNITED STATES MILITARY TRIBUNALS Defense Center
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
HELD 30 JULY 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA	:	
- vs. -	:	OPINION ON MOTION OF
CARL KRAUCH, et al.,	:	THE DEFENSE AND ORDER
	:	<u>THREEON</u>
Defendants.	:	Case No. 6

Upon reading and considering the motion of all the defendants in the above cause, filed therein on 7 July 1947, together with the answer of the Chief of Counsel thereto, filed on 10 July 1947, it is hereby

ORDERED, for the reasons set forth in the attached Opinion of the Tribunal, that said motion of said defendants be and the same is hereby denied without prejudice.

Robert M. Jones
Executive Presiding Judge

Matt B. Beale
Presiding Judge, Tribunal I

James T. Brand
Presiding Judge, Tribunal III

Charles Chase
Presiding Judge, Tribunal IV

Charles J. Lemmon
Presiding Judge, Tribunal V



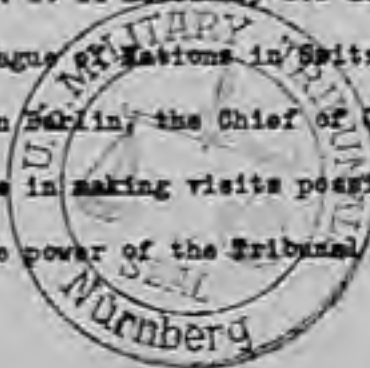
OPINION OF THE TRIBUNALS

The Indictment was filed on May 3, 1947, and the commencement of the trial was tentatively set for August 6, 1947, an interval of more than three months. The defense will not be required to offer any proof until after the opening statement and the testimony of the prosecution has been submitted, which will undoubtedly be several months after August 6th. The application at this time for a continuance of three months is premature and the necessity for such continuance does not appear. If, when the time comes for the defense to present its proof, it then appears to the Tribunal that a continuance is necessary, an application under the circumstances then existing will be considered.

In the application for the approval of non-German defense counsel, no specific attorney is designated. It is impossible to pass upon such a carte blanche application and to approve counsel whose identity is not known. If defense counsel desire to submit an application for the appointment of a specified non-German attorney and if, in addition, no obligation to pay for the services of such attorney falls upon the American Government, or any agency thereof, such application will be considered by the Tribunal.

The request that a defense attorney be authorized to go to the United States for the purpose of investigating matters connected with the trial cannot be granted in view of the restrictions imposed by United States Military Government and the Department of State upon the entry into the United States of German nationals.

If it becomes apparent later that it is necessary for defense counsel to use the Library of the League of Nations in Switzerland or the Library of International Law in Berlin, the Chief of Counsel assures the Tribunal that he will cooperate in making visits possible. In any event this request is not within the power of the Tribunal to grant or deny.



With reference to the petition to release a part of the property and funds of the I. G. Farbenindustrie from the General Order of the United States Military Government dated July 5, 1945, entitled, "Blocking on Control of Property," these Tribunals have no jurisdiction to modify or suspend such order or any part thereof. It is to be observed, however, that the property and funds blocked by this Military Order are those of the I. G. Farbenindustrie A.G., a body corporate, and are not the funds of the individual defendants in this case. The I. G. Farbenindustrie A.G., to whom the blocked funds belong, is not named in the indictment.



UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
6 AUGUST 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA
- vs. -
CARL KRAUCH, et al.,
Defendants.

ORDER
Case No. 6

On considering the application of the defendant below
set forth for the production of the document herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunals as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Carl Krauch	Affidavits of Dr. Carl Krauch made during the interrogations in September 1945 at his farm Falkenhof	Granted

Robert M. Lewis
Executive Presiding Judge

61

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
11 AUGUST 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below set forth for the production of the documents herein indicated,

IT IS ORDERED that said application be granted or denied, in whole or in part, or granted conditionally, in accordance with the decision of the Tribunals below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Hans Kugler	Statements and affidavits for Dr. Hans Kugler	Denied
	1) All of the affidavits and interrogation transcripts signed by defendant KUGLER from the time he was arrested in Nurnberg (23 July 1947) until the indictment was served.	
	2) All documents and transcripts of interrogations signed by defendant KUGLER during the time he was working for the BERNSTEIN Committee and was interrogated by the BERNSTEIN Committee, and which the Prosecution intends to produce as documents in the course of the proceedings.	


Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
11 AUGUST 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the application of the defendant Heinrich Gattineau for the summoning of the witness Melesner, former State Minister,

IT IS ORDERED that said application be approved for interrogatory or deposition only.

Robert M. Jones
Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
HELD 12 AUGUST 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

The Supervisory Committee of Presiding Judges of the United States Military Tribunals, provided for by Article XIII of Ordinance No. 7 and acting under the provisions of Article V, g. as amended February 17, 1947, hereby orders that Case No. 6, now pending before said Tribunals, to wit, The United States of America vs. Carl Krauch, et al., be and it hereby is assigned to Tribunal VI for trial.

Robert M. Louis

Executive Presiding Judge

APPROVED:

Walter B. Beals

Presiding Judge, Tribunal I

James T. Brand

Presiding Judge, Tribunal III

Charles B. Sears

Presiding Judge, Tribunal IV

Charles F. W. W. W. W.

Presiding Judge, Tribunal V

Emilio J. Thadde

Presiding Judge, Tribunal VI

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Muernberg, Germany
Case Number 6
Tribunal No. VI

Against

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

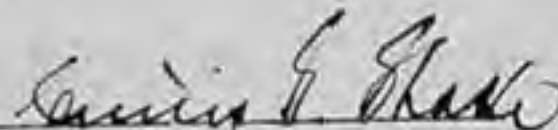
Dr. Warner Schubert, counsel for Ernst Suergin
one of the above-named defendants, having requested this Tribunal
that Wolfgang Theobald, whose address is
Wuppertal-Elberfeld, Schlieperstr. 13, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Wolfgang Theobald be,
and he hereby is, approved as assistant attorney for said

Ernst Suergin to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:

13 Aug. 1947


Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against

Nuernberg, Germany
Case No. 6
Mil. Tribunal VI

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Dr. Max Ilgner, one of the above-named defendants, having requested this Tribunal that Dr. Herbert Nath whose address is Nuernberg, Rothenburgerstr. 50, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Herbert Nath be, and he hereby is, approved as attorney for said Max Ilgner to represent him with respect to the charges pending against him under the indictment filed herein.

Dated:

13 Aug. 1947

Conrad S. Shank
Presiding Judge

Form MT No-1

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Krauch and others

Wuerzburg, Germany

Case Number 6Tribunal No. VI

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Hellmuth Dix, counsel for Dr. Schneider
 one of the above-named defendants, having requested this Tribunal
 that Rupprecht Storkebaum, whose address is
 Schoenstadt Kreis Marburg/Lahn, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Rupprecht Storkebaum be,
 and he hereby is, approved as assistant attorney for said

Dr. Schneider to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

13 Aug. 1947



Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 13 AUGUST 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the applications of the defendant
Heinrich Gattineau for the summoning of the witnesses

Dr. Rudolf Peschel

Friedrich Stampfer

Fritz Wiedemann

IT IS ORDERED that said applications be approved for
interrogatory or deposition only.


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 13 AUGUST 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

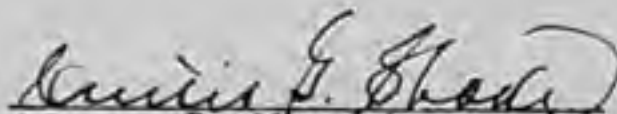
ORDER

Case No. 6

On considering the applications of the defendant below set forth for the production of the respective documents herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Fritz Ter Meer	Letter from IG to Oberkommando der Wehrmacht, Wehrwirtschaftsstab, Berlin W. 35, dated 6 Oct 1939 (Sign: Dr. L/Ks) concerning Transfer of Buna patents to Standard Oil Co. of New Jersey	Granted
Fritz Ter Meer	Letter from IG to Reichswirtschaftsminister, Berlin, dated 6 Oct 1939 or similar concerning Transfer of Buna patents to Standard Oil Co. of New Jersey	Granted


Presiding Judge

THE UNITED STATES OF AMERICA :

- vs. - :

KRAUCH et al. :

Case No. 6

MEMORANDUM

The management of the Prison in which the defendants are confined and the measures which are deemed to be necessary in the interest of security and orderly administration are primarily the responsibility of the proper military authorities. This Tribunal will not assume to take cognizance of such matters unless there is a clear showing that a defendant's rights to a fair and impartial trial are being violated. The petitions of defense counsel, dated 6 June 1947 and 11 June 1947, do not disclose any violation of such rights. Said petitions are, therefore, denied.


CURTIS C. SHALE,
Presiding Judge, Tribunal VI

Dated 15 August 1947

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 20 AUGUST 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the defendant Erich von der Heyde for the summoning of the witnesses

Karl von Heider
 Erich Mueller
 Eduard Schaumburg,

IT IS ORDERED that said applications be denied as premature, with leave to renew at proper time.

Walter E. Shaw
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 20 AUGUST 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
 set forth for the production of the documents herein indicated,

IT IS ORDERED that said application be granted or denied,
 in whole or in part, or granted conditionally, in accordance with
 the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Max Ilgner	all affidavits given by Dr. Ilgner so far	Granted

William E. Hake
 Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case Number 6

Against

Tribunal No. VI

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Karl Hoffmann, counsel for Erich von der Heyde one of the above-named defendants, having requested this Tribunal that Dr. Walter B. chem, whose address is Frankfurt/Main, Hedwig Dransfeldstr. 16, be entered and approved on the records of the Military Tribunal as his assistant,

IT IS ORDERED that the said Dr. Walter B. chem be, and he hereby is, approved as assistant attorney for said Erich von der Heyde to represent him with respect to the charges pending against him under the indictment filed herein.

Dated:

22 Aug. '47

Samuel J. Hasko
Presiding Judge

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Herbert Math, counsel for Max Ilgner
 one of the above-named defendants, having requested this Tribunal
 that Dr. Joachim Lingenberg, whose address is
Alfeld/Leine, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Joachim Lingenberg be,
 and he hereby is, approved as assistant attorney for said
 Max Ilgner to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

22 Aug. 1947

Quinn T. Shadle
 Presiding Judge

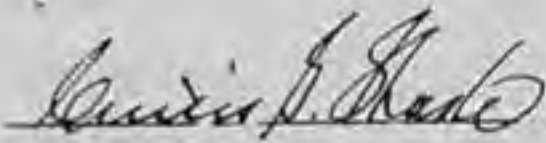
MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against
Krauch and others

Muernberg, Germany
Case Number 6
Tribunal No. VI

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Berndt, counsel for Wilhelm Mann
one of the above-named defendants, having requested this Tribunal
that Dr. Rolf W. Mueller, whose address is
Triburg i. Sch., Hauptstr. 68, be entered and approved
on the records of the Military Tribunals as his assistant,
IT IS ORDERED that the said Dr. Rolf W. Mueller be,
and he hereby is, approved as assistant attorney for said
Wilhelm Mann to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:
22 Aug. 1947


Presiding Judge

THE UNITED STATES OF AMERICA :


- vs. - :

KRAUCH et al :

Case No. 6 :

MEMORANDUM

The petition of the defendant HANS KUEHNE
for the withdrawal of the indictment against him, dated
6 July 1947, is denied.


CURTIS C. SHALE,
Presiding Judge, Tribunal VI

Dated 25 August 1947

THE UNITED STATES OF AMERICA :

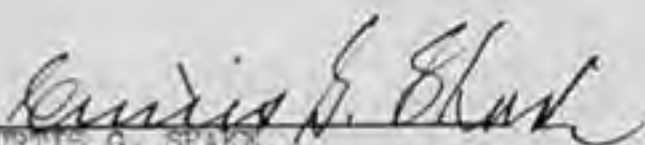
- vs. - :

KRAUCH et al :

Case No. 6

MEMORANDUM

The application on behalf of the defendant
MAX ILCHER for authority to employ a second assistant
to his counsel is denied without prejudice.


CURTIS G. SPAKE,
Presiding Judge, Tribunal VI

Dated 25 August 1947

THE UNITED STATES OF AMERICA :

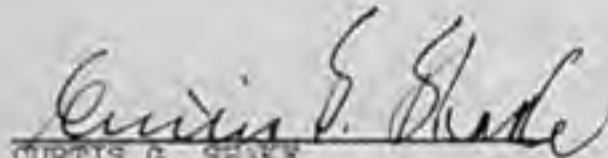
- vs. - :

KRAUCH et al :

Case No. 5

MEMORANDUM

The application on behalf of the defendant PAUL HAEFLIGER for a second assistant counsel is denied. It does not appear to the Tribunal that the rights of the defendant will be prejudiced by adherence to Rule 7 (a) of the Uniform Rules of Procedure, as revised 3 June 1947.


CURTIS G. SHANKS,
Presiding Judge, Tribunal VI

Dated 25 August 1947

THE UNITED STATES OF AMERICA :

- vs. - :

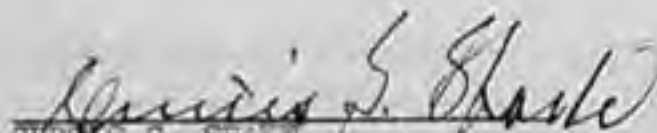
KRAUCH et al. :

Case No. 6 :

MEMORANDUM

The petition on behalf of the defendant
CARL KRAUCH for approval of a second main counsel for
said defendant is denied.

If the defendants join in a proper petition
to have Dr. EDUARD WAHL of the University of Heidelberg
approved as independent defense counsel, the Tribunal
will give prompt consideration to such application.


CURTIS G. SHARR,
Presiding Judge, Tribunal VI

Dated 25 August 1947

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al. :


Case No. 6

MEMORANDUM

It is ordered that:

Captain Brody, MC
Captain Wohlrabe, MC
Captain Carpenter, MC

be and they are hereby designated as a Commission to make an examination and submit a report as to the condition of the defendant HERMANN SCHMITZ. Said Commission is requested to report its findings as to (1) said defendant's mental condition and (2) whether he is physically able to attend court without serious injury to his health.


CURTIS G. SHAKE,
Presiding Judge, Tribunal VI

Dated 25 August 1947

UNITED STATES MILITARY TRIBUNAL VI
 SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
 26 AUGUST 1947

1350 hours
 FILED 26.8.47 with
 Secretary General
 for Military Tribunals
 Defense Center

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

OPINION ON NOTICE OF
 THE DEFENSE AND ORDER
 THEREON

Case No. 6

ON CONSIDERATION OF THE MOTION dated 18 August 1947, filed on behalf of the defendants in this case, together with the answer of the Chief of Counsel thereto, dated 20 August 1947;

IT IS ORDERED, that the said motion requesting that the indictment be rejected as lacking sufficient particulars and that the prosecution be directed to file a new indictment or further particulars be, and the same is hereby, denied.

IT IS FURTHER ORDERED, that the application for postponement for six months be, and the same is hereby, denied.

A statement setting forth the reasons for the above rulings will be entered upon the proceedings of the Tribunal at its next session.

BY MILITARY TRIBUNAL VI


 CURTIS G. SHAKER, President

Dated this 26th day of August, 1947

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 28 AUGUST 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the production of the respective documents herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Otto Ambros	NI-7288	Granted
Wilhelm Mann	9 Affidavits of Druggist Roeskahr, Dr. Hermann Schnell, Leo Rueber, Alexander Schad, Joachim Buhlmann, Erich Seeger, Karl Schmitt, Dr. Ernst Heiserich, Victor Mann	Granted conditionally

Quinn T. Gade
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 3 SEPTEMBER 1947

FILED 3/9/47 with
 Secretary General
 for Military Tribunals
 Defense Center

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

It is ordered by the Tribunal that the application made on behalf of all the defendants on 28 August 1947 for approval of the designation of Herr University Professor Dr. Eduard WAHL as special counsel for all of the defendants be, and the same is hereby, approved.

BY MILITARY TRIBUNAL VI


 CURTIS C. SHAKER, President

Dated this 3rd day of September, 1947

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Friedrich Wagner, counsel for Wurster
 one of the above-named defendants, having requested this Tribunal
 that Dr. Wolfgang Heintzeler, whose address is
 Palace of Justice, Rm. 559, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Wolfgang Heintzeler be,
 and he hereby is, approved as assistant attorney for said

Wurster to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

8 September 1947

William J. Gable
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 8 SEPTEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant Wilhelm Mann for the production of DB-minutes (Minutes of the meetings of the Managing Board) 1938, 1939, 1940,

IT IS ORDERED that the defendant be directed to make his application more specific.

William J. Hall
Presiding Judge

16 Oct 1947

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 8 SEPTEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the production of the document herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Otto Ambros	43rd conference of the Board of Central Plannings of 2 July 1943.	Granted

William J. Kane
Presiding Judge

10 Oct 1947

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 8 SEPTEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the application of counsel for the defendant Otto Ambros, for permission to examine documents of plant Gendorf/Obb., at Gendorf,

IT IS ORDERED that said application be granted.

Walter J. G. H. H.
Presiding Judge

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKranz and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Henze, counsel for Dr. Heinrich Oster
 one of the above-named defendants, having requested this Tribunal
 that Dr. Gernot Gather, whose address is
 Behringersdorf Kurhotel, be entered and approved
 on the records of the Military Tribunal as his Assistant,

IT IS ORDERED that the said Dr. Gernot Gather be,
 and he hereby is, approved as assistant attorney for said
 Dr. Heinrich Oster to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

9 September 1947



Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
9 SEPTEMBER 1947

THE UNITED STATES OF AMERICA	:	
- vs. -	:	Case No. 6
CARL KRAUCH, et al.,	:	
Defendants.	:	

O R D E R

ON CONSIDERATION of the application of counsel for the Defendant, MAX BRUEGGEMANN, dated 16 June 1947, together with accompanying and subsequent medical reports which establish that the said defendant is not at present able to stand trial without serious danger to his life; and on consideration of the statement made by the Chief of Counsel to the Tribunal in open court under date of 14 August 1947, concurring in the foregoing conclusion based on the medical reports, together with the motion of the United States to postpone proceedings against the Defendant, MAX BRUEGGEMANN, dated 24 June 1947,

IT IS ORDERED that the charges against the Defendant, MAX BRUEGGEMANN, be, and the same are, hereby severed, for the purposes of trial, from the charges against the other defendants now on trial before this Tribunal;

IT IS FURTHER ORDERED that the charges contained in the indictment against the Defendant, MAX BRUEGGEMANN, shall be retained upon the docket of the Military Tribunals, as a separate cause, for trial hereafter, if the physical and mental condition of the said defendant shall permit.

BY MILITARY TRIBUNAL VI


CURTIS G. SHAKE, President

Dated this 9th day of September, 1947.

10 Sep 1947 GOR
PROSECUTION NOTIFIED

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT COUNSEL

Dr. Conrad Boettcher, counsel for Karl Krauch
 one of the above-named defendants, having requested this Tribunal
 that Dr. von Hespert, whose address is
 Palace of Justice, Room 536, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. von Hespert be,
 and he hereby is, approved as assistant attorney for said
 Karl Krauch to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

11 Sept 1947

Amelia B. Phelan
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 11 SEPTEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below set forth for the production of the respective documents herein indicated,

IT IS ORDERED that said application be granted or denied, in whole or in part, or granted conditionally, in accordance with the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Max Ilgner	Reports of Dr. Ilgner on his trips to Far East and South America	Granted

Wm. J. Kane
Presiding Judge

16 Oct 1947

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Kraich and others

Nuernberg, Germany

Case Number 6

Tribunal No. VI

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Fritz Drischel, counsel for Otto Ambros
one of the above-named defendants, having requested this Tribunal
that Dr. Wolfgang Alt, whose address is
Indrigahafen/Rhine, Bunsenstr. 4, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Wolfgang Alt be,
and he hereby is, approved as assistant attorney for said

Otto Ambros to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:

19 Sept. '47

William E. Hake
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 19 SEPTEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant Carl Krauch for the summoning of the witness Lutz Graf von Schwerin-Krosigk,

IT IS ORDERED that said application be approved for interrogation and submission of interrogatories.

10 Oct 1947

Walter G. Horn
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 19 SEPTEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the applications of the defendant below set forth for the production of the respective documents herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Max Ilgner	Memorandum on Increase of Export / I.G.	Granted
Max Ilgner	Statements Dr. Ilgner from 1945 thru 1946	Granted

10 Oct 1947

William J. Gaxe
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 19 SEPTEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

<u>Name of Defendant</u>	<u>Name of Witness</u>
Heinrich Hoerlein	Dr. Hans Reiter
Carl Krauch	Albert Speer
Georg von Schnitzler	Lutz Graf Schwerin von Krosigk

IT IS ORDERED that said applications be approved for interrogation and submission of interrogatories.

Quinn T. Gane
Presiding Judge

10 Oct 1947

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 24 SEPTEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

Name of Defendant

Name of Witness

Heinrich Gattineau

Hunke

Hans Kugler

Richard von Silving

IT IS ORDERED that said applications be granted for interrogation of the respective witnesses.

10 Oct 1947

Ernest L. Kane
Presiding Judge

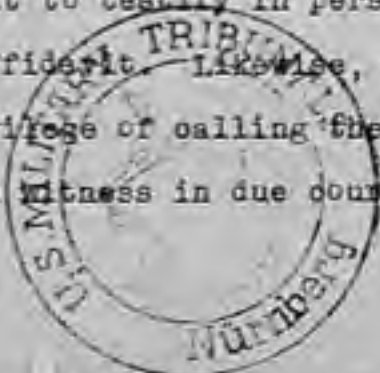
UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
30 SEPTEMBER 1947

THE UNITED STATES OF AMERICA	:	
	:	
- vs. -	:	
	:	Case No. 6
CARL KRAUCH, et al.,	:	
	:	
Defendants.	:	

There seems to be no question about the right of the prosecution to offer evidence in the form of affidavits nor about the right of the defense to cross examine the authors of such affidavits who can be made available for that purpose.

The controversy appears to evolve around the question as to when such cross examination shall take place. When a witness testifies in person the cross examination follows his testimony in chief. It is not practical, however, to follow this rule when affidavits are introduced in evidence. Any delay between the introduction of the affidavit and the cross examination of its author is favorable to the defense since they are advised in advance as to the evidence contained in the affidavit.

The Tribunal rules that the prosecution may produce the authors of its affidavits for cross examination as to the contents of such affidavits at any time before the prosecution rests its case in chief. The cross examination must be without prejudice to the right of the prosecution to call the author of an affidavit to testify in person as to matters not embraced in his affidavit. Likewise, the defense must be accorded the privilege of calling the author of an affidavit as its own witness in due course.



- 2 -

The prosecution may produce the author of an affidavit for cross examination before all of his affidavits are introduced on the condition that the author shall again be produced for cross examination if additional affidavits are offered after he has been once cross examined.

The defense should indicate to the prosecution with reasonable promptness whether it will desire to cross examine the authors of such affidavits as have been introduced by the prosecution. The prosecution should also advise the defense in advance when it expects to produce the authors of affidavits for cross examination.

Orville G. Shaver
Presiding Judge
Internal H

30 Sept 1947



UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 1 OCTOBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Heinrich Hoerlein	Dr. Helmut Vetter	Granted

10 Oct 1947

Ernest J. Thorne
Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case No. 6

Against

Mil. Tribunal VI

Krauch

and others

ORDER APPOINTING DEFENSE COUNSEL

Hermann Schmitz, one of the above-named defendants, having requested this Tribunal that Dr. Rudolf Dix whose address is Nuernberg, Glockendonstr. 23, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Rudolf Dix be, and he hereby is, approved as attorney for said Hermann Schmitz to represent him with respect to the charges pending against him under the indictment filed herein.

Dated:

3 Oct. 1947

Wm. J. Hase
Presiding Judge

Form MT No-1

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Helmut Henze, counsel for Hans Kugler
one of the above-named defendants, having requested this Tribunal
that Dr. Leopold Krafft v. Dellmensingen, whose address is

Seeshaupt, Staltacherstr. 120, be entered and approved
on the records of the Military Tribunal as his assistant.

IT IS ORDERED that the said Dr. Leopold Krafft von ^{Dellmensingen} ~~be~~
and he heroby is, approved as assistant attorney for said

Hans Kugler to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:

13 Oct '947

Quinn T. Shad
Presiding Judge

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Erich Berndt, counsel for Fritz ter Meer
 one of the above-named defendants, having requested this Tribunal
 that Karl Bornemann, whose address is
 Frankfurt a. Main, Klueberstr. 15/I, be retained and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Karl Bornemann be,
 and he hereby is, approved as assistant attorney for said

Fritz ter Meer to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

13 Oct 1947

Walter S. Shadle
 Presiding Judge

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Nurnberg, Germany

Case No. 6

Military Tribunal VI

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Fritz ter Meer, one of the above-named defendants, having requested this Tribunal that Dr. Martin Gremer, whose address is Ruedesheim, Rheinstr. 29, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Martin Gremer be, and he hereby is, approved as attorney for said Fritz ter Meer to represent him with respect to the charges pending against him under the indictment filed herein.

Dated

13 Oct 1947

Carlisle S. Shaker
Presiding Judge

Form MT No-1
18 Nov 46 - 500

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 13 OCTOBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the defendant Carl Krauch for the summoning of the witnesses

von Falkenhausen and
Walter Warlimont

IT IS ORDERED that said applications be approved for interrogation and submission of interrogatories.


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 16 OCTOBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant Carl Krauch for the summoning of the witness Rudolf Huehnermann,

IT IS ORDERED that said application be approved for interrogation and interrogatories.


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 16 OCTOBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendants
 Hermann Schmitz and Christian Schneider for the summoning of
 the witness Erhard Milch,

IT IS ORDERED that said application be approved for
 interrogation, subject to Prison regulations.


 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 20 OCTOBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

<u>Name of Defendant</u>	<u>Name of Witness</u>
Heinrich Hoerlein	Dr. Karl Koenig
Heinrich Hoerlein	Dr. Otto Luecker
Heinrich Hoerlein	Dr. Anton Mertens
Carl Krauch	Dr. Walter Schieber

IT IS ORDERED that said applications be approved for interrogation and procuring of affidavits. Issuance of summons ordered postponed until witness is needed.


 Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against
KRAUCH and Others

Nuernberg, Germany
Case Number 6
Tribunal No. VI

ORDER APPOINTING ADMINISTRATIVE ASSISTANT
DEFENSE CHIEF COUNSEL

Dr. Conrad Boettcher, chief counsel for the above-named defendants, having requested this Tribunal that Dr. Rolf W. Mueller, whose address is Theodorstr. 5/II, Nurnberg, be entered and approved on the records of the Military Tribunals as his administrative assistant,

IT IS ORDERED that the said Dr. Rolf W. Mueller be, and he hereby is, approved as administrative assistant attorney for said Dr. Conrad Boettcher, chief attorney for said defendants, to represent him with respect to his duties as chief counsel for said defendants.

Dated: 21 October 1947

Landis G. Shade
Presiding Judge

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

AGAINST

Tribunal No. 6Irach and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Prof. Eduard Wahl, special counsel for all above-named defendants, having requested that Dr. Julius Fehsenbecker, whose address is Heidelberg Heusserstrasse 2, be entered and approved on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Fehsenbecker be, and he hereby is, approved as assistant attorney for all defendants to represent them with respect to the charges pending against them under the indictment filed herein.

DATED:

29 Oct 1947



Presiding Judge

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. 6

Krauch and others

CERTIFICATE APPOINTING ASSISTANT DEFENSE COUNSEL

Helmut Henze, counsel for Heinrich Oster
one of the above-named defendants, having requested this Tribunal
that Dr. Kurt Hartmann, whose address is
Ilvesheim, Goethestrasse 25, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Kurt Hartmann be,
and he hereby is, approved as assistant attorney for said

Heinrich Oster to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:

29 Oct 1947

Carroll E. Shaver
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 29 OCTOBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant Heinrich Gattineau for the summoning of the witness Hederich,

IT IS ORDERED that said application is approved for interrogation. Issuance of summons ordered postponed until witness is needed.


Presiding Judge

111

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
29 OCTOBER 1947

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On considering the recent verbal request of Defense Counsel Dr. Erich Berndt, representing Defendant FRITZ ter MEER, that said defendant and his counsel be permitted to make a visit to the Farben offices at Frankfurt, at a time when the court is not in session, for the purpose of making an examination of pertinent document material located there,

IT IS ORDERED that such proposed visit will have the approval of the Tribunal, provided satisfactory arrangements can be made with the Military and Prison authorities.

Curtis G. Shake

CURTIS G. SHAKE,
Presiding.

Dated this 29th day of October 1947.

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 31 OCTOBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.


ORDER

Case No. 6

On considering the applications of the defendant below
set forth for the summoning of the respective witnesses herein
indicated,

<u>Name of Defendant</u>	<u>Name of Witness</u>
Heinrich Hoerlein	Professor Dr. Wolfgang Wirth
Heinrich Hoerlein	Dr. Leopold von Sicherer

IT IS ORDERED that said applications be approved for
interrogation of witness. Summons not to be issued until witness
is needed.


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
4 NOVEMBER 1947

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

In order to discharge the obligation resting upon it to achieve an expeditious hearing of the issues and to avoid unreasonable delay, (Military Government Ordinance Number 7, Article VI), the Tribunal finds it necessary to issue the following:

ORDER:

1. Dr. John H. E. Fried is hereby appointed a Commissioner of this Tribunal to preside at and supervise the taking of the testimony of such witnesses as may hereafter, from time to time, be designated by the Tribunal on the official record of its proceedings.

2. Before assuming his official duties hereunder the said Dr. John H. E. Fried shall take, subscribe to and file with the Secretary General an oath or affirmation to the effect that he will honestly, faithfully and impartially perform and discharge his duties as such Commissioner.

3. Said Commissioner shall have power to administer oaths; take evidence; enforce the attendance of witnesses, parties and counsel; preserve good order; fix and determine the time of his hearings; and do all other things reasonably necessary to the proper administration of his office; all subject to the directions of the Tribunal and review by the Tribunal for good cause shown.

4. The said Commissioner shall cause a verbatim report of his proceedings, including the testimony and evidence taken before him, to be properly recorded, reported, certified to, and filed in the office of the Secretary General. All evidence so reported by the Commissioner shall be considered by the Tribunal as of the same force and effect as evidence heard by the Tribunal in open court. The Commissioner shall also cause an appropriate number of copies of all such testimony and evidence, in the German and English languages, to be made available for the use of the Tribunal and counsel in this cause.

5. It shall be the duty of the Secretary General and the Marshal of the Tribunal to make available to said Commissioner such facilities, services and accommodations as may be reasonably necessary for the proper discharge of his official duties.

- 2 -

6. This Order is without prejudice to the power and authority of the Tribunal to modify or rescind the same at its pleasure.

MILITARY TRIBUNAL VI:



Lewis J. Gault
Presiding Judge

James Morris
Judge

Paul M. Hebert
Judge

Clare F. Gorman
Alternate Judge

Dated this 4th day of November 1947.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
4 NOVEMBER 1947

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On considering the recent verbal request by Defense Counsel Dr. Helmut Henze, representing Defendant HANS KUGLER, that said defendant be permitted to travel to Bad Sodungen near Frankfurt, to visit his dying son,

IT IS ORDERED that above request be granted, subject to such precautions as the Prison Director may deem to be necessary and proper to guarantee the prompt and safe return of the defendant within a reasonable time or when ordered by the Tribunal.

Curtis G. Shake

CURTIS G. SHAKE,
Presiding.

Dated this 4th day of November 1947

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 6 NOVEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant Walter
Duerrfeld for the summoning of the witness Gerhard Maurer,

IT IS ORDERED that said application be approved for
interrogation of witness. Summons not to be issued until witness
is needed.


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 8 NOVEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 5 -

On considering the application of counsel for the defendant Otto Ambros for permission for the defendant Ambros under due guard to accompany said defense counsel to Gendorf for the purpose of examining documents,

IT IS ORDERED that said application be denied.

Lawrence G. Shado
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 12 NOVEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant Heinrich Gattineau for the summoning of the witness Walter Raffelsberger,

IT IS ORDERED that said application be approved for interrogation of witness. Issuance of summons ordered postponed until witness is needed.


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
13 NOVEMBER 1947

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants :

Case No. 6

O R D E R

It is ordered by the Tribunal that until otherwise directed the Defendant PAUL HAEFLIGER may be excused from attendance at the trial at such times and for such periods of time as the prison doctors may deem necessary and proper for medical treatment.

Curtis C. Shake
- CURTIS C. SHAKE,
Presiding.

Dated this 13th day of November 1947.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
14 NOVEMBER 1947

THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

O R D E R

The Secretary General is directed to make a request upon USAWCB, Augsburg, for a copy of the report prepared for the CIC by Colonel Hoffmann in May, 1945, concerning the utilization of concentration camp inmates at Anorgana G.M.B.H., Gendorf, to be used by the Tribunal in the trial of this cause. The Secretary General may make such representations relative to the return of said document as may be necessary. If and when such document is obtained, it shall remain in possession of the Secretary General but will be subject to inspection and examination by counsel for the defense and the prosecution.

Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 14th day of November 1947.

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 14 NOVEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

<u>Name of Defendant</u>	<u>Name of Witness</u>
Heinrich Gattineau	Dr. Eugen Fischer, Chemist
Heinrich Gattineau	Johann Melekus
Heinrich Gattineau	Hans Rechenberg
Heinrich Gattineau	Hans Schaeven-
Heinrich Gattineau	Dr. Rudolf Schmidt
Heinrich Gattineau	Karl Schreyer
Heinrich Gattineau	Jost Terhaar
Heinrich Hoerlein	Cleff
Heinrich Hoerlein	Hoffmann
Heinrich Hoerlein	Honrath

IT IS ORDERED that said applications be approved for interrogation and procuring of affidavits. Issuance of summons postponed until witnesses are needed.


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
18 NOVEMBER 1947

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

In order to discharge the obligation resting upon it to achieve an expeditious hearing of the issues and to avoid unreasonable delay, (Military Government Ordinance Number 7, Article VI), the Tribunal finds it necessary to issue the following:

ORDER:

1. Mr. James G. Mulroy is hereby appointed a Commissioner of this Tribunal to preside at and supervise the taking of the testimony of such witnesses as may hereafter, from time to time, be designated by the Tribunal on the official record of its proceedings.

2. Before assuming his official duties hereunder the said Mr. James G. Mulroy shall take, subscribe to and file with the Secretary General an oath or affirmation to the effect that he will honestly, faithfully and impartially perform and discharge his duties as such Commissioner.

3. Said Commissioner shall have power to administer oaths, take evidence; enforce the attendance of witnesses, parties and counsel; preserve good order; fix and determine the time of his hearings; and do all other things reasonably necessary to the proper administration of his office; all subject to the directions of the Tribunal and review by the Tribunal for good cause shown.

4. The said Commissioner shall cause a verbatim report of his proceedings, including the testimony and evidence taken before him, to be properly recorded, reported, certified to, and filed in the office of the Secretary General. All evidence so reported by the Commissioner shall be considered by the Tribunal as of the same force and effect as evidence heard by the Tribunal in open court. The Commissioner shall also cause an appropriate number of copies of all such testimony and evidence, in the German and English languages, to be made available for the use of the Tribunal and counsel in this cause.

5. It shall be the duty of the Secretary General and the Marshal of the Tribunal to make available to said Commissioner such facilities, services and accommodations as may be reasonably necessary for the proper discharge of his official duties.

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5. This Order is without prejudice to the power and authority of the Tribunal to modify or rescind the same at its pleasure.

MILITARY TRIBUNAL VI:



Ernest J. Hark
Presiding Judge

James Morris
Judge

Paul M. Herbert
Judge

Clarence M. Mink
Alternate Judge

Dated this 18th day of November 1947

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
20 NOVEMBER 1947

THE UNITED STATES OF AMERICA :
:
- vs. - :
: Case No. 6
CARL KRAUCH, et al., :
:
Defendants. :

O R D E R

To expedite the cross-examination of the witnesses of the Prosecution and the presentation of the evidence of the defendants, the Tribunal finds it necessary to provide special assistance for Defense Counsel. It is therefore ordered that the following named persons will, upon submission of formal applications and clearances of the Security Office, be accredited and approved as members of the General Staff of Defense Counsel, to wit:

1.
 - a) Dr. Karl MEYER, Troisdorf
 - b) Fritz NAUMANN, Ludwigshafen
 - c) Josef NIEMANN, Ludwigshafen
 - d) Dr. C. O. KUESTER, Grassau.

It is further ordered that the following named persons will, upon the same conditions, be approved as assistants to the above named persons:

2.

for Dr. Karl MEYER - Dr. Karl HAGEMANN, Essen
for Herr Fritz NAUMANN - Dr. Adalbert Joppich, Baden
for Herr Josef NIEMANN - Dipl. Ing. Karl HAKSELER, Uerding
for Dr. C. O. KUESTER - Dr. Hermann Stradal, Uerdingen.

It is further ordered that each of the above named eight persons may be assigned a secretary.

This order is made and entered for the purpose of enabling the Defense to make an examination and analysis of certain documentary material and is subject to cancellation in the discretion of the Tribunal.

The proper Military and Administrative Officers will make the necessary arrangements for the compensation, billeting and accommodations of the above named persons, in accordance with the prevailing regulations, while they are engaged in the performance of their duties pursuant to this order.

MILITARY TRIBUNAL VI:


CURTIS G. SHAKE, Presiding

Dated this 20th day of November 1947

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. 6Krauch and others

COURT APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Oskar Krauss, counsel for Friedrich Jaehne
 one of the above-named defendants, having requested this Tribunal
 that Adolf Eisemann, whose address is
Friedrichsthal / Saar, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Adolf Eisemann be,
 and he hereby is, approved as assistant attorney for said

Friedrich Jaehne to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated: 21 Nov 1947

Quinn T. Shaker

Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 21 NOVEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA :
:
- vs. - :
:
CARL KRAUCH, et al., :
:
Defendants. :

ORDER

Case No. 6

On considering the application of the defendant Carl Krauch for the summoning of the witness Dr. Meine,

IT IS ORDERED that said application be granted for interrogation of witness. Summons not to be issued until witness is needed.


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 2 DECEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA
 - vs. -
 CARL KRAUCH, et al.,
 Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

<u>Name of Defendant</u>	<u>Name of Witness</u>
Erich von der Heyde	Erich Mueller
Carl Krauch	Dr. Albrecht Weiss
Hans Kugler	Elmer Michel

IT IS ORDERED that said applications be approved for interrogation of witnesses. Summons not to be issued until witnesses are needed.

Levin E. Hane
 Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
 SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
 3 DECEMBER 1947

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUSE, et al., :

Defendants. :

Case No. 6

ORDER

On considering the application of Defense Counsel Dr. EMMS PRIBILLA and Dr. OSEAR KRAUSE, representing Defendants Carl LAUTENSCHLAGER and Friedrich JAHNE, respectively, dated 25 November 1947, that effective 1 December 1947, Dr. Pribilla be appointed Main Counsel for both the above mentioned defendants, and that Dr. KRAUSE be permitted until further notice to stay with the Defense as assistant,

IT IS ORDERED that the application be approved.

Curtis G. Starks
 CURTIS G. STARKS,
 Presiding.

Dated this 3rd day of December 1947.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
3 DECEMBER 1947

THE UNITED STATES OF AMERICA	:	
	:	
- vs. -	:	Case No. 6
	:	
CARL KRAUCH, et al.,	:	
	:	
Defendants.	:	

ORDER

It is ordered that the application of Dr. HANNS GIERLICHES, Assistant Attorney for Dr. Hermann SCHMITZ for the production of all statements and affidavits of said Defendant made prior to his indictment, dated 24 November 1947; the application of v. METZLER, Assistant Attorney for the Defendant PAUL HAEFLIGER for the production of all statements and affidavits for said Defendant made prior to his indictment, dated 21 November 1947; and the application of Dr. HELMUTH BIX, Attorney for the Defendant Christian SCHNEIDER for the production of the interrogation transcript of said Defendant, dated 3 November 1947, all of which said interrogations and statements are alleged to be in the possession of the Prosecution, is assigned for oral argument before the Tribunal at 0930 o'clock, 17 December 1947, the Prosecution and the said Defendants, jointly, to be allowed fifteen minutes each to present their views as to said matters.

Curtis G. Shaker

CURTIS G. SHAKER,
Presiding.

Dated this 3rd day of December 1947.

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UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
8 DECEMBER 1947

THE UNITED STATES OF AMERICA	:	
	:	
- vs. -	:	
	:	Case No. 6
CARL KRAUCH, et al.,	:	
	:	
Defendants.	:	

Pursuant to the authority vested in the Tribunal by section (e), Article V of Military Ordinance No. 7, and in accordance with the order of the Tribunal entered under date of 18 November 1947, designating JAMES G. MULROY as commissioner to preside at and supervise the taking of the testimony of such witnesses as may, from time to time, be designated, the Tribunal hereby issues the following:

ORDER:

The testimony of the witnesses listed below whose affidavits or interrogations have been admitted in evidence in this case shall be taken before the said commissioner and verbatim report of all such testimony shall be promptly made to the Tribunal as provided in the above-mentioned Order, dated 18 November 1947:

<u>Name of Witness</u>	<u>Exhibit No.</u>	<u>Location in Document Book</u>
William ALLEN	Ex. 1349 NI-11410	LXIX 76 100
Karl AMEND	Ex. 1769 NI-12217	LXXXII 112 136
Rene BALANDIER	Ex. 1398 NI-7501	LXX 146 257
Dr. BRUNDEL	Ex. 1811 NI-11953	LXXXIII 155 167
Perry BROAD	Ex. 1762 NI-11954	LXXXII 50 50
Willi DAGNE	Ex. 45 NI-9540	II 22 5
Arthur DIETZSCH	Ex. 1630 NI-12184	(LXXXIV 67 97 (LXXXV
Alfred ELBAU	Ex. 1762 NI-11954	LXXXII 50 50
	Ex. 1811 NI-11953	LXXXIII 155 167
	Ex. 1755 NI-12333	LXXXIX 40 45
Guenther FRANK-FAHLE	Ex. 1623 NI-9360	LXV
	Ex. 1622 NI-9288	LVII
Paul HAENI	Ex. 1765 NI-12073	LXXXII 85 93
	Ex. 1767 NI-12203	LXXXII 89 95
	Ex. 1793 NI-9913B	LXXXIII 100 105
	Ex. 1799 NI-11936	LXXXIII 133 141
Kurt HAUPTMAN	Ex. 1315 NI-11411	LXVIII 12 14
	Ex. 1317 NI-11412	LXVIII 16 17
	Ex. 1823 NI-12739	LXXI 33b 37b
Otto HAUCK and		
Adolf HOEHLE	Ex. 42 NI-9503	II 20 3
Josef HERYNK	Ex. 1122 NI-11622	LIV 94 158
Waldemar HOVEN	Ex. 1610 NO-429	LXXXIV 58 87
	Ex. 1611 NI-12182	LXXXIV 64 92



- 2 -

Name of Witness	Exhibit No.	Location in Document Book
Walter JACOBI	Ex. 592 NI-7743	XXXXII 1 1
	Ex. 611 NI-7745	(XXXXIV 108 213
		(XIII 225 239
	Ex. 776 NI-7605	XLIV 18 18
Jozef JAKUBIK	Ex. 1454 NI-9818	LXXIV 78 137
Josef JOHAM	Ex. 1067 NI-10998	LII 47 66
Francisek KACPRZAK	Ex. 1162 NI-6739	LVI 30 64
Franz KLECKSA	Ex. 1121 NI-11624	LIV 91 153
Salomon KOHN	Ex. 1474 NI-10824	LXXV 94 110
	Ex. 1474 NI-10824	LXXV 163 187
Kurt KRUEGER	Ex. 1570 NI-10728	LXIV 42 68
Olga LENGYEL	Ex. 1490 NI-10932	LXXV 190 225
Dr. Walter LOEBNER	Ex. 1549 NI-11652	LXXXI 28 47
Guenther LOTZMANN	Ex. 1450 NI-10166	LXXIV 57 102
Iri MAREK	Ex. 1624 NI-12396	LIV 90a
Rudolf MAREK	Ex. 1348 NI-9372	LXXIX 71 94
Jean van MOL	Ex. 1402 NI-11614	LXXI 20 21
MRUGOWSKY	Ex. 1799 NI-11936	LXXXIII 133 141
Dr. Nyzsli NIKOLAE	Ex. 1763 NI-11710	LXXXII 63 61
John W. PEHLE	Ex. 1758 NI-12546	LXXXIX 126 116
Herbert ROSENBERG	Ex. 1548 NI-11654	LXXI 23 37
Franz ROTTENBERG	Ex. 1068 NI-10997	LII 51 70
Hermann Fritz RUTHER	Ex. 258 NI-7998	X 36 46
Gustav SCHLOTTERER	Ex. 1172 NI-11379	LXIII 31 26
Heinrich SCHUSTER	Ex. 1762 NI-11662	LXXXII 67 69
Albert SPEER	Ex. 482 NI-5821	XXII 50 53
Leon STALSCHAK	Ex. 1489 NI-10928	LXXV 181 208
	Ex. 1489 NI-10928	LXXVIII 91 113
Noack TREISTER	Ex. 1484 NI-4827	(LXXV 160 184
		(LXXVIII 138 163
		(LXXIX 1 1
Karl WOLFF	Ex. 1582 NI-6025	LXXXX 14 16
Alfred ZAUN	Ex. 1780 NI-11937	LXXXIII 3 3
	Ex. 1784 NI-11396	LXXXIII 38 41
	Ex. 1783 NI-11880	LXXXIII 23 25
	Ex. 1782 NI-11881	LXXXIII 12 13
Moses ZLOTOW	Ex. 1488 NI-11081	LXXV 175 203
Ernst STRUSS	Ex. 1814 NI-12627	XXVIII 141

MILITARY TRIBUNAL VI



James E. Glavin
Presiding Judge

James M. Jones
Judge

Paul M. Herbert
Judge

Charles F. M. Jones
Alternate Judge

Dated this 8th day of December 1947

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against

Kuernberg, Germany
Case No. 5
Mil. Tribunal VI

Krench and others

ORDER APPOINTING DEFENSE COUNSEL

Otto Ambros, one of the above-named defendants, having requested this Tribunal that Dr. Karl Hoffmann whose address is Palace of Justice, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Karl Hoffmann be, and he hereby is, approved as attorney for said Otto Ambros to represent him with respect to the charges pending against him under the indictment filed herein.

Dated:

15 December 1947

William J. Thode
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against

Nuernberg, Germany
Case No. 6
Mil. Tribunal VI

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Fritz ter Meer, one of the above-named defendants, having requested this Tribunal that Karl Bornemann whose address is Frankfurt/Main, Klueberstr. 15, be entered and approved on the records of Military Tribunal as his lawful attorney,

IT IS ORDERED that the said Karl Bornemann do, and he hereby is, approved as attorney for said Fritz ter Meer to represent him with respect to the charges pending against him under the indictment filed herein.

Dated:

15 December 1947

Samuel P. Thode
Executive Presiding Judge

Form MT No-1

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Muenberg, Germany
Case Number 6
Tribunal No. VI

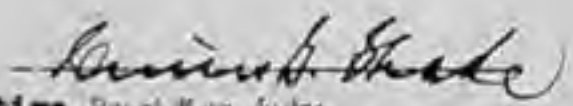
Against
Krauch and others

ORDER APPOINTING ASSISTANT COUNSEL

Dr. Erich Berndt , counsel for Fritz ter Meer
one of the above-named defendants, having requested this Tribunal
that Dr. Hermann Muenzel , whose address is
Frankfurt/Main, Hauener Landstr. 531 , be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Hermann Muenzel be,
and he hereby is, approved as assistant attorney for said
Fritz ter Meer to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:
15 December 1947


Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 15 DECEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Erich von der Heyde	Fuediger	Granted
Carl Krauch	Erhard Milch	Granted
Carl Krauch	Dr. Walther Schieber	Granted
Bernann Schmitz	Dr. Hjalmar Schacht	Granted

Quinn T. Keane
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 16 DECEMBER 1947, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the defendant Heinrich
 Cattineau for the summoning of the witnesses

Helmut Dohler
 Georg Ebert
 Georg Klotz,

IT IS ORDERED that said applications be denied, without
 prejudice, on ground applications are insufficient to show that
 the evidence sought is material. See Rules.

Herbert J. Harte
 Presiding Judge

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

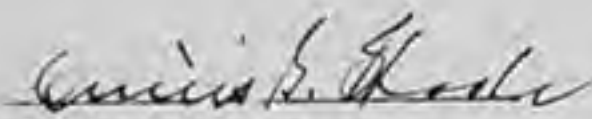
Dr. Hans Flaechner, counsel for Bueteufisch
 one of the above-named defendants, having requested this Tribunal
 that Dr. Werner Bross, whose address is
 Kiel-Holtenau, Richterstr. 2, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Werner Bross be,
 and he hereby is, approved as assistant attorney for said

Bueteufisch to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

8 January 1948


 Executive Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 8 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the defendant below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Carl Krauch	Dr. Johannes Eckell	Granted
Carl Krauch	Dr. Emil Riemann	Granted
Carl Krauch	Dr. Gerhard Ritter	Granted

Walter J. Thade
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 8 JANUARY 1946, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses, herein indicated,

Name of Defendant

Name of Witness

Heinrich Gattineau

Max Justtner

Georg von Schnitzler

Dr. Gustav Schlotterer

IT IS ORDERED that said applications be denied without prejudice to right to file new application, on ground of insufficiency of showing as to materiality of evidence sought.

Gudix E. Shaw
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 12 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the application of the several defendants below set forth for the production of the respective documents herein indicated,

<u>Name of Defendant</u>	<u>Document</u>
Paul Haeffliger	Statements and affidavits of Paul Haeffliger made prior to his indictment, NI-8972 NI-7058 NI-1309
Hermann Schmitz	All statements and affidavits of Geheimrat Schmitz made prior to his indictment
Christian Schneider	Interrogation transcript of Dr. Christian Schneider dated 27 March 1947

IT IS ORDERED that said applications be denied without prejudice, in accordance with ruling made on the Record.

Quinn T. Tamm
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
13 JANUARY 1948

THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

ORDER

Upon consideration of the petition of Dr. Herbert Nath, Counsel for the Defendant MAX ILGNER, it is ordered that the proposed trip of Dr. Walter Bachem to Norway for the purpose of interrogating witnesses and procuring documents for use in the defense of said defendant is hereby approved by the Tribunal.

The Tribunal deems that it has no jurisdiction, however, to authorize the issuance of travel orders, visas or expense money for said proposed trip, although the Tribunal has no objection to such being done by any appropriate governmental agency.


CURTIS G. SHAKE,
Presiding.

Dated this 13th day of January 1948.

MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Herbert Math, counsel for Max Ilgner
 one of the above-named defendants, having requested this Tribunal
 that Dr. Agnes Math-Schreiber, whose address is
 Palace of Justice Room 544, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Agnes Math-Schreiber be,
 and he hereby is, approved as assistant attorney for said

Max Ilgner to represent him with respect to the
 charges pending against him under the Indictment filed herein.

Dated:

13 Jan 1948

Quinn T. Glavin
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 13 JANUARY 1946, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Ernst Guergin	Richard Milch	Granted
Hermann Schmitz	Press-Hoffmann	Granted
Hermann Schmitz	Clemons Lammars	Granted
Hermann Schmitz	Hans von Raumer	Granted - Travel orders authorized


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
14 JANUARY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The order dated 20 November 1947, authorizing the appointment of additional members of the General Staff of Defense Counsel is hereby modified in the following respects:

1. The following-named persons are hereby cleared and approved as members of the General Staff of Defense Counsel, to wit:

a. Dr. Hermann WALTER, effective upon the submission of proper clearances from the Security Office.

b. Dr. Fritz NAUMANN, effective as of 8 December 1947.

c. Dr. Josef NIEMANN, effective as of 10 December 1947. (or 6/2)

d. Dr. Hugo SCHRAMM, effective upon the submission of proper clearances from the Security Office.

It is further ordered that the following-named persons are hereby approved as assistants to the above-named members of the General Staff of Defense Counsel:

a. for Dr. Hermann Walter - Dr. Adalbert JOFFICH, effective as of 16 December 1947.

b. for Dr. Fritz Naumann - Karl HAESELER, effective as of 8 December 1947.

c. for Dr. Josef Niemann - Karl-Heinz HAEFKE, effective as of 15 December 1947.

d. for Dr. Gustav Schramm - Gebhard WILHELM, effective as of 16 December 1947.

This modified order is subject to all rules and regulations pertaining to Defense Counsel including rules and regulations for accommodations, sustenance and compensation.



CURTIS G. SHAKE,
Presiding.

Dated this 14th day of January 1948.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
14 JANUARY 1948

THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

ORDER

It is ordered by the Tribunal on its own motion that the Defendant HERMANN SCHMITZ be transported and transferred to the 317th Station Hospital, Wiesbaden, Germany, for a medical examination relating to his ability to stand trial.

The Secretary General is requested to take the necessary steps to cause said defendant to be transported to above hospital for such examination and for his return upon the completion of said examination.

Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 14th day of January 1948.

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 14 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied, in whole or in part, or granted conditionally, in accordance with the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Christian Schneider	Dr. Albrecht Weiss	Granted

Lawrence G. Shaker
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 16 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA
- vs. -
CARL KRAUCH, et al.,
Defendants.

ORDER
Case No. 6

On considering the application of the defendant below
set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Max Ilgner	Arthur Schoene	Granted

Carroll J. Shadle
Presiding Judge

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UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 21 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :
 :
 - vs. - :
 :
 CARL KRAUCH, et al., :
 :
 Defendants. :

ORDER
Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Heinrich Gattineau	Max Juetner	Granted
Fritz Gajewski	Dipl. Ing. Kurt Riess	Granted


Presiding Judge

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UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 22 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :
:
- vs. - :
:
CARL KRAUCH, et al., :
:
Defendants. :

ORDER
Case No. 5

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Ernst Burger	Dr. Bernhard Schoener	Granted
Fritz Gajewski	Hans Joeres	Granted
Fritz Gajewski	Dr. Karl Schwendemann	Granted
Georg von Schnitzler	Dr. Wilhelm Doering	Granted
Georg von Schnitzler	Dr. Hans Kramer	Granted
Georg von Schnitzler	Dr. Gustav Kuepper	Granted
Georg von Schnitzler	Dr. Julius Overhoff	Granted
Georg von Schnitzler	Dr. Gustav Schlotterer	Granted
Georg von Schnitzler	Hermann Schwab	Granted
Georg von Schnitzler	Max Winkler	Granted

Kenneth S. Harbo
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 24 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

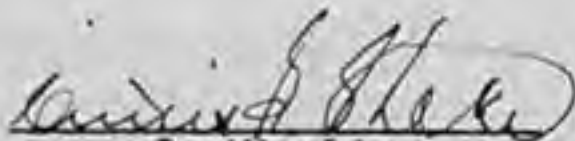
Defendants.

ORDER

Case No. 6

On considering the request of the prison physician that the defendant Carl Krauch be hospitalized for a week for a revaluation of his cardiac disease,

IT IS ORDERED that said request be granted.


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 24 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :
 :
 - vs. - :
 :
 CARL KRAUCH, et al., :
 :
 Defendants. :

ORDER
 Case No. 6

On considering the application of the defendant below
 set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
 in whole or in part, or granted conditionally, in accordance with
 the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Ernst Burger	Julius Franz	Granted

Walter G. H. H. H.
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 26 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Ernst Puergin	Hans Joeres	Granted
Ernst Puergin	Dr. Hermann Lang	Granted
Heinrich Buetefisch	Otto Steinbrinck	Granted

Quintus Thane
 Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUERNBERG, GERMANY
27 JANUARY 1948

THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

ORDER

It having been made to appear to the Tribunal that the mother of the Defendant Christian Schneider is critically ill and said defendant having requested through his counsel that he be permitted to visit her at her home in Kulmbach,

IT IS ORDERED that said request is granted and that said defendant, on his application, will be excused from personal attendance at court for the purpose of making said visit subject, however, to such precautions as the prison director may deem necessary to guarantee the prompt and safe return of the defendant within a reasonable time or when ordered by the Tribunal.

Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 27th day of January 1948.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
28 JANUARY 1948

THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

ORDER

On 25 September 1947, one THOMAS ALLEGRETTI made application for approval of appointment as counsel for the Defendant Georg von Schnitzler. Promptly thereafter said applicant was advised in person by the Tribunal in chambers that said application did not comply in form with the rules of the Tribunal; that it would be necessary for said applicant to establish to the satisfaction of the Tribunal that he was a member of the bar in good standing and that he was situated to assume and discharge the responsibilities of counsel in this cause.

Said THOMAS ALLEGRETTI having wholly failed to amend his petition, furnish evidence of his professional standing and make a showing that he could and would if appointed be in position to represent said defendant, the Tribunal now, as of this date, dismisses said application.

Curtis G. Shake

CURTIS G. SHAKE,
Presiding.

Dated this 28th day of January 1948

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 28 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the defendant below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Heinrich Hoerlein	Prof. Dr. Adolf Butenandt	Granted
Heinrich Hoerlein	Prof. Dr. Hellmut Weese	Granted

Quinn T. Egan
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
29 JANUARY 1948

THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

ORDER

In accordance with order of this Tribunal made and entered in the above entitled manner upon the 18th day of November 1947 in which said order, Mr. James G. Mulroy was appointed a Commissioner of this Tribunal to preside at and supervise the taking of testimony of such witnesses as might from time to time be designated by this Tribunal on the official record of its proceedings;

And it now appearing that certain of the witnesses designated as aforesaid are now residents of Austria, and that it is necessary for their testimony to be taken by the aforesaid Commissioner, and it appearing that the names of said witnesses are: Josef Joham and Franz Rottenberg, and that said witnesses cannot be produced or examined at Nurnberg, Germany;

And it further appearing that it is necessary for the following persons to be present at and attend the examination of said witnesses to wit: Randolph Newman, Assistant Prosecutor, Elvira Raphael, Research Analyst, one German Court Reporter to be selected by the Chief Court Reporter at Nurnberg, Miss Eunice L. Hasdorff, English Court Report, Mr. Max Wagner, German-English Interpreter, Conrad Boettcher, Attorney for Defendants, Wolfram Metzler, Attorney for Defendants, Herbert Nath, Attorney for Defendants, and Rudolf Aschenauer, Attorney for Defendants, and the Tribunal being fully advised in the matter, Now Therefore,

IT IS HEREBY ORDERED that the said Commissioner, James G. Mulroy, be and he is hereby authorized and directed forthwith, or at the earliest practicable date, to proceed to the City of Vienna in the State of Austria, accompanied by the above mentioned persons and, thereafter, in said City proceed with the oral examination of the witnesses designated herein, and the said Commissioner is hereby authorized and directed to make such arrangements as may be necessary for the transportation and billeting of all of the said parties in or between the Cities of Vienna, Austria, and Nurnberg, Germany.

Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 29th day of January 1948.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
29 JANUARY 1948

THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

ORDER

The Tribunal on its own motion hereby designates

Major James Galvin, O-52052, MC
Captain Joseph S. Jacobs, O-1735879, MC
Captain Harry J. Colgan, O-1724920, MC

as a commission to examine the Defendant HERMANN SCHMITZ and to report the result of their examination to the Tribunal for its information.

The Tribunal especially desires a complete report as to the mental condition of said defendant, with particular reference as to whether his state of mind is such that he can make a defense and, if he so desires, testify as a witness in his own behalf. In that connection, the Tribunal wishes to be advised as to the findings of the commission from a medical point of view, leaving it to the Tribunal to draw the ultimate inferences as to whether the defendant can make a defense and testify if he so desires.

In order to facilitate said examination, authority is hereby granted for the removal of said defendant from the prison at Nurnberg, to the 317th Station Hospital at Wiesbaden. The Secretary General is requested to take the necessary steps for the removal of the defendant to said hospital subject to such security measures as the proper military authorities may deem to be necessary and proper under the circumstances. Said defendant is to be returned to the Nurnberg Prison upon the completion of said examination or the further order of the Tribunal.

Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 29th day of January 1948.

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Muernberg, Germany

Case No. 6

Against

Mil. Tribunal VI

Krauch

and others

ORDER APPOINTING DEFENSE COUNSEL

Paul Haeffliger, one of the above-named defendants, having requested this Tribunal that Dr. Wolfram von Metzler whose address is Palace of Justice Room 539, be entered and approved on the records of Military Tribunals as his lawful attorney.

IT IS ORDERED that the said Dr. Wolfram von Metzler be, and he hereby is, approved as attorney for said Paul Haeffliger to represent him with respect to the charges pending against him under the indictment filed herein.

Dated:

29 January 1948

Quincy J. Shale
Presiding Judge

Form MT No-1

MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Wolfram v. Metzler, counsel for Paul Haeffliger
 one of the above-named defendants, having requested this Tribunal
 that Dr. Walter Vinassa, whose address is
 Palace of Justice Room 539, be entered and approved
 on the records of the Military Tribunal as his assistant,

IT IS ORDERED that the said Dr. Walter Vinassa be,
 and he hereby is, approved as assistant attorney for said

Paul Haeffliger to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

29 January 1948


 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 29 JANUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Otto Ambros	Grad. Engineer Wilhelm Biedenkopf	Granted
Otto Ambros	Geheimrat Dr. Hermann Buecher	Granted
Otto Ambros	Dr. Emil A. Eismann	Granted
Otto Ambros	Professor Dr. K. H. Meyer	Granted
Otto Ambros	Gerhard Ziegler	Granted
Hans Kugler and Georg von Schmitzler	Richard von Szilvinyi	Granted

Quinn T. Tamm
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 2 FEBRUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Carl Krauch	Hans Joachim Freiherr von Kruedener	Granted

William J. Shaw
Presiding Judge



UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 3 FEBRUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the production of the document herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Christian Schneider	Burkart No. 683, Exhibit No. 51 (Case against Friedrich Flick and others)	Granted


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
4 FEBRUARY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

It appearing to the Tribunal that it is necessary for certain original exhibits to be taken by James G. Mulroy as Commissioner of this Tribunal, to the City of Vienna, Austria, for use in the taking of testimony of witnesses in said city;

Such original exhibits to be returned upon the completion of said examinations, and the court being fully advised in the premises;

IT IS HEREBY ORDERED that the original exhibits, Numbers 1067 and 1068, being NI 10998 and NI 10997 respectively may be withdrawn from the Archives of the Secretary General, and delivered to the said Commissioner, James G. Mulroy, in accordance with the terms of this order.

Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 4th day of February 1948.

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 4 FEBRUARY 1946, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. -

CARL KRAUCH, et al.,

Defendants. :


ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant:</u>	<u>Name of Witness</u>	<u>Decision</u>
Wilhelm Mann	Dr. Josef Grobel	Granted
Wilhelm Mann	Director Dr. Paulmann	Granted
Wilhelm Mann	Director Josef Schmitz	Granted
Wilhelm Mann	Werner Schmitz	Granted
Wilhelm Mann	Director Dr. Zahn	Granted
Fritz ter Meer	Dr. Gustav Kuepper	Denied


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
5 FEBRUARY 1948

THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 8
Defendants.	:	

ORDER

Since the opening of this trial, 27 August 1947, Dr. Ernst Achenbach has been chief counsel of record for the Defendant Friedrich Gajewski. The Tribunal has noted, however, the absence of Dr. Achenbach from participation in the trial since 16 January 1948.

The Tribunal is now advised by Dr. Achenbach that he resides in Essen in the British Zone and only spends his time in Nurnberg on a temporary basis to discharge his responsibilities in this case and before another Tribunal where he is also counsel. Dr. Achenbach has further advised the Tribunal that he has information to the effect that the Bavarian Ministry for Special Tasks in Munich holds a warrant for his arrest which, however, has not been served upon him. The Tribunal has no information as to the nature of the charge upon which said warrant was issued. Said Counsel has asked the Tribunal to intervene in his behalf so that he may be assured of the privilege of participation in this trial and in the discharge of his professional responsibilities to his client.

The Tribunal has interrogated the Defendant Friedrich Gajewski and has ascertained from him that it is his preference to be represented in this trial by said Ernst Achenbach.

This Tribunal has no disposition to intervene with respect to the duties and responsibilities of other courts or agencies. It is the responsibility of the Tribunal, however, to see that defendants on trial are adequately represented by competent counsel. The Tribunal therefore directs the Secretary General to contact the Bavarian Ministry for Special Tasks and ascertain from said agency whether it would be compatible with its responsibilities in the premises to withhold service of the warrant for the arrest of said Ernst Achenbach until such time as he has discharged his duties in the trial of the case now pending before this Tribunal.

Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 5th day of February 1948.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
6 FEBRUARY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

United States Military Tribunal VI and the judges constituting said Tribunal, pursuant to Military Government Ordinance No. 7, Article V (f), hereby approves and adopts the attached "Uniform Rules of Procedure, Military Tribunals, Nurnberg", dated 8 January 1948, which said rules of practice and procedure are made a part of this order by reference.



Wesley B. Shatt
Presiding Judge

James M. Mori
Judge

James M. Hubert
Judge

Charles F. Wheeler
Alternate Judge

Dated this 6th day of February 1948.

OFFICE OF MILITARY GOVERNMENT (US)

Uniform Rules of Procedure

Military Tribunals

Nuernberg

- Revised to 8 January 1948



HULES OF PROCEDURE FOR MILITARY TRIBUNAL**

Rule 1. Authority to promulgate Rules

The present rules of procedure of the Military Tribunal constituted by General Order No. 68 of the Office of Military Government for Germany (U.S.) hereinafter called "Military Tribunal____" or "the Tribunal" are hereby promulgated by the Tribunal in accordance with the provision of Article V (f) of Military Government Ordinance No. 7 issued pursuant to the powers conferred by Control Council Law No. 10.

Rule 2. Languages in which Pleadings, Documents and Rules shall be Transcribed.

When any Rule of Procedure adopted by Military Tribunal____ directs or requires that a defendant in any position before the Tribunal shall be furnished with a copy of any pleading, document, rule, or other instrument in writing, such Rule shall be understood to mean that such defendant shall receive a true and correct copy of such pleading, document, rule, or other instrument, written in the English language, and also a written translation thereof in a language which the defendant understands.

Rule 3. Notice to Defendants

(a) The Marshal of Military Tribunals, or his duly authorized deputy, shall make service of the indictment upon a defendant in any prosecution before the Tribunal by delivering to and leaving with him (1) a true and correct copy of the indictment and of all documents lodged with the indictment, (2) a copy of Military Government Ordinance No. 7, (3) a copy of Control Council Law No. 10, and (4) a copy of these Rules of Procedure.

(b) When such service has been made as aforesaid, the Marshal shall make a written certificate of such fact, showing the day and place of service, and shall file the same with the Secretary General of Military Tribunals.

(c) The certificate, when filed with the Secretary General, shall constitute a part of the record of the case.



Rule 4. Time Intervening Before Service and Trial

A period of not less than thirty days shall intervene between the Service of the indictment upon a defendant and the day of his trial pursuant to the indictment.

Rule 5. Notice of Amendments or Additions to Original Indictment

(a) If before the trial of any defendant the Chief of Counsel for War Crimes offers amendments or additions to the indictment, such amendments or additions, including any accompanying documents, shall be filed with the Secretary General of Military Tribunals and served upon such defendant in like manner as the original indictment.

Rule 6. Defendant to receive certain Additional Documents on Request

(a) A defendant shall receive a copy of such Rules of Procedure, or amendments thereto as may be adopted by the Tribunal from time to time.

(b) Upon written application by a defendant or his counsel, lodged with the Secretary General for a copy of (1) the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945, or (2) the Judgment of the International Military Tribunal of September 30 and October 1, 1946, the same shall be furnished to such defendant, without delay.

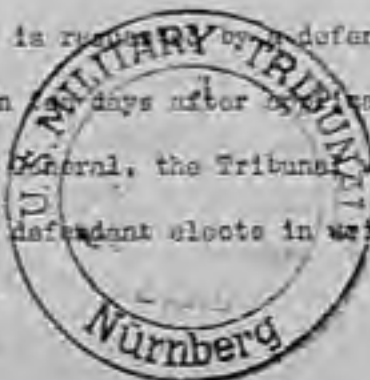
Rule 7. Right to Representation by Counsel

(a) A defendant shall have the right to conduct his own defense, or to be represented by counsel of his own selection, provided such counsel is a person qualified under existing regulations to conduct cases before the courts of defendant's country, or is specially authorized by the Tribunal.

(b) Application for particular counsel shall be filed with the Secretary General, promptly after service of the indictment upon the defendant.

(c) The Tribunal will designate counsel for any defendant who fails to apply for particular counsel, unless the defendant elects in writing to conduct his own defense.

(d) Where particular counsel is requested by a defendant but is not available or cannot be found within a reasonable time after application therefore has been filed with the Secretary General, the Tribunal will designate counsel for such defendant, unless the defendant elects in writing to con-



dant his own defense. If thereafter, before trial, such particular counsel is found and is available, or if in the meanwhile a defendant selects a substitute counsel who is found to be available, such particular counsel, or substitute, may be associated with or substituted for counsel designated by the Tribunal; provided that (1) only one counsel shall be permitted to appear at the trial for any defendant, except by special permission of the Tribunal, and (2) no delay will be allowed for making such substitution or association.

Rule 8. Order at the Trial

In conformity with and pursuant to the provisions of Article IV and VI of Military Government Ordinance No. 7, the Tribunal will provide for maintenance of order at the trial.

Rule 9. Oath; Witnesses

(a) Before testifying before the Tribunal each witness shall take such oath or affirmation or make such declaration as is customary and lawful in his own country.

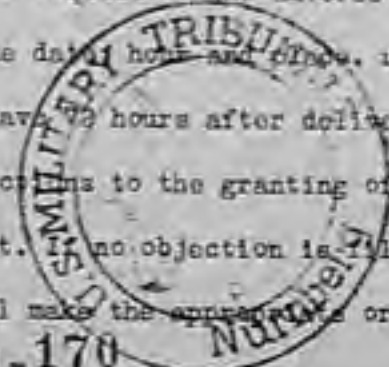
(b) When not testifying, the witness shall be excluded from the Courtroom. During the course of any trial, witnesses shall not confer among themselves before or after testifying.

Rule 10. Motions and Applications (except for witnesses and documents)

(a) All motions, applications (except applications for witnesses and documents) and other requests addressed to the Tribunal shall be filed with the Secretary General of Military Tribunals, at the Palace of Justice, Euerberg, Germany.

(b) When any such motion, application or other request is filed by the prosecution there shall be filed therewith five copies in English and two copies in German; when filed by the defense there shall be filed therewith one copy in German to which shall be added by the Secretary General eight copies in English.

(c) The Secretary General shall deliver a translated copy of such motion, application or other request to the adverse party and note the fact of delivery, specifying the date, hour and place, upon the original. The adverse party shall have 72 hours after delivery to file with the Secretary General his objections to the granting of such motion, application or other request. If no objection is filed, the presiding Judge of the Tribunal will make the appropriate order on



behalf of the Tribunal. If objections are filed, the Tribunal will consider the objections and determine the questions raised.

(d) Delivery of a copy of any such motion, application or other request to counsel of record for the adverse party shall constitute delivery to such adverse party.

Rule 11. Rulings during the Trial

The Tribunal will rule upon all questions arising during the course of the trial. If such course is deemed expedient, the Tribunal will order the clearing or closing of the Courtroom while considering such questions.

Rule 12. Production of Evidence for a Defendant

(a) A defendant may apply to the Tribunal for the production of witnesses or of documents on his behalf, by filing his application therefor with the Secretary General of Military Tribunals. Such application shall state where the witness or document is thought to be located, together with the last known location thereof. Such application shall also state the general nature of the evidence sought to be adduced thereby, and the reason such evidence is deemed relevant to the defendant's case.

(b) The Secretary General shall promptly submit any such application to the Tribunal, and the Tribunal will determine whether or not the application shall be granted.

(c) If the application is granted by the Tribunal, the Secretary General shall promptly issue a summons for the attendance of such witness or the production of such documents, and inform the Tribunal of the action taken. Such summons shall be served in such manner as may be provided by the appropriate occupation authorities to insure its enforcement, and the Secretary General shall inform the Tribunal of the steps taken.

(d) If the witness or the document is not within the area controlled by the United States Office of Military Government for Germany, the Tribunal will request through ^{proper} channels that the Allied Control Council arrange for the production of any such witness or document as the Tribunal may deem necessary to the proper presentation of the defense.



Rule 13. Records, Exhibits and Documents.

(a) An accurate stenographic record of all oral proceedings shall be maintained. Exhibits shall be suitably identified and marked as the Tribunal may direct. All exhibits and transcripts of the proceedings, and such other material as the Tribunal may direct, shall be filed with the Secretary General and shall constitute a part of the record of the cause.

(b) Documentary evidence or exhibits may be received in the language of the document, but a translation thereof into a language understood by the adverse party shall be furnished to such party.

(c) Upon proper request, and approval by the Tribunal, copies of all Exhibits and transcripts of proceedings, and such other matter as the Tribunal may direct to be filed with the Secretary General, and all official acts and documents of the Tribunal, may be certified by said Secretary General to any government, to any other tribunal, or to any agency or person as to whom it is appropriate that copies of such documents or representations as to such acts be supplied.

Rule 14. Withdrawal of Exhibits and Documents, and Substitution of Photostatic Copies Therefor.

If it be made to appear to the Tribunal by written application that one of the Government signatories to the Four Power Agreement of 8 August 1945, or any other government having received the consent of the said four signatory powers, desires to withdraw from the records of any cases, and preserve, any original document on file with the Tribunal, and that no substantial injury will result thereby, the Tribunal may order any such original document to be delivered to the applicant, and a photostatic copy thereof, certified by the Secretary General, to be substituted in the record therefor.

Rule 15. Opening Statement for Prosecution.

The prosecution may be allowed, for the purpose of making the opening statement, time not to exceed one trial day. The Chief Prosecutor may allocate this time between himself and any of his assistants as he may wish.



Rule 16. Opening Statement for Defense.

When the prosecution rests its case, defense counsel will be allotted two trial days within which to make their opening statement, which will comprehend the entire theory of their respective defenses. The time allotted will be divided between defense counsel as they may themselves agree. In the event that defense counsel cannot agree, the Tribunal will allot the time not to exceed thirty minutes to each defendant.

Rule 17. Prosecution to File Copies of Exhibits - Time for Filing.

The prosecution, not less than twenty-four hours before it desires to offer any record, document, or other writing in evidence as part of its case in chief, shall file with the defendant's Information Center not less than one copy of each record, document, or writing for each of the counsel for defendants, such copy to be in the German language. The prosecution shall also deliver to defendants' Information Center at least four copies thereof in the English language.

Rule 18. Copies of all Exhibits to be filed with Secretary General.

When the prosecution or any defendant offers a record, document, or other writing or a copy thereof in evidence, there shall be delivered to the Secretary General, in addition to the original of the document or other instrument in writing so offered for admission in evidence, six copies of the document. If the document is written or printed in a language other than the English language, there shall also be filed with the copies of the document above referred to, six copies of an English translation of the document. If such document is offered by any defendant, suitable facilities for procuring English translations of that document shall be made available to the defendant.

Rule 19. Notice to Secretary General concerning Witnesses.

At least twenty-four hours before a witness is called to the stand either by the prosecution or by any defendant, the party who desires the testimony of the witness shall deliver to the Secretary General an original and six copies of a memorandum which shall disclose: (a) the name of the witness; (b) his nationality; (c) his residence or station; (d) his official rank or position; (e) whether he is called as an expert witness or as witness to testify to the facts, and if the latter



brief statement of the subject matter concerning which the witness will be interrogated. When the prosecution prepares such a statement in connection with a witness whom it desires to call, at the time of the filing of the foregoing statement two additional copies thereof shall be delivered to the defendant's Information Center. When a defendant prepares the foregoing statement concerning a witness whom he desires to call, the defendant shall, at the same time the copies are filed with the Secretary General, deliver one additional copy to the prosecution.

Rule 20. Judicial Notice.

When either the prosecution or a defendant desires the Tribunal take judicial notice of any official government document or report to the United Nations, including any act, ruling, or regulation of any committee, board, or council heretofore established by or in the allied nations for the investigation of war crimes, or any record made by, or finding of, any military or other Tribunal of any of the United Nations, this Tribunal may refuse to take judicial notice of such document, rule or regulation unless the party proposing to ask this Tribunal to judicially notice such a document, rule, or regulation, places a copy thereof in writing before the Tribunal.

Rule 21. Procedure for Obtaining Written Statements.

Statements of witnesses made "in lieu of an oath" may be admitted in evidence if otherwise competent and admissible and containing statements having probative value if the following conditions are met.

(1) The witness shall have signed the statement before defense counsel, or one of them, and defense counsel shall have certified thereof;

or (2) The witness shall have signed the statement before a notary, and the notary shall have certified thereto; or

(3) The witness shall have signed the statement before a burgomaster, and the burgomaster shall have certified thereto, in case neither defense counsel nor a notary is readily available without great inconvenience; or

(4) The witness shall have signed the statement before a competent prison camp authority, and such authority shall have certified thereto in case the witness is incarcerated in a prison camp.



(5) The statement "in lieu of an oath" shall contain a preamble which shall state, "I, (name and address of the witness) after having first been warned that I will be liable for punishment for making a false statement in lieu of an oath and declare that my statement is true in lieu of an oath, and that my statement is made for submission as evidence before Military Tribunal____, Palace of Justice, Nurnberg, Germany, the following:"

(6) The signature of the witness shall be followed by a certificate stating: "the above signature of (stating the name and address of the witness) identified by (state the name of the identifying person or officer) is hereby certified and witnessed by me. (To be followed by the date and place of the execution of the statement and the signature and witness of the person or officer certifying the same.)"

Rule 22. Special Circumstances

If special circumstances make compliance with any one of the above conditions impossible or unduly burdensome, then defense counsel may make application to the Tribunal for a special order providing for the taking of the statement of desired witness concerning conditions to be completed with in that specific instance.

Rule 23. Interviewing of Witnesses

In all cases where persons are detained in the Nurnberg jail with as witnesses or prospective witnesses, and counsel for the prosecution or the defense wish to interview or interrogate such witnesses, the following procedure shall be followed:

(1) Counsel desiring such interview or interrogation shall give at least forty-eight (48) hours notice in writing to the opposite side, stating the title of the case, the name of the witness and the date and hour of the proposed interview or interrogation and no more. The proposed interview shall not involve compensation for overtime. Prosecution shall give notice by filing such notice with the Defense Center. Defense Counsel shall file such notice with Defense Center which shall give notice to the Division of the prosecution concerned.



(2) In case the prosecution wishes to interview or interrogate such witness, counsel for the defendant or defendants involved shall have the right to be present. In case a defense counsel wishes to interview or interrogate such a witness, a representative of the prosecution shall be entitled to be present, but if the prosecution does not elect to be present at the time requested then the defense counsel may interview the witness without the presence of a representative of the prosecution.

(3) Defense Information Center shall have the right to make rules or regulations not inconsistent herewith for the purpose of facilitating the operations of this rule. Written copies of such rules or regulations shall be served on the prosecution and posted in Defense Information Center.

(4) Original Rule 23 and Rule 23 as amended on 3 June 1947 are superseded hereby.

(5) This rule shall be effective on and after the 14th day of January, 1948.

Rule 24. Effective Date and Powers of Amendment and Addition

These Rules shall take effect upon their approval by the Tribunal. Nothing herein contained shall be construed to prevent the Tribunal at any time in the interest of fair and expeditious procedure, from departing from, amending or adding to these rules, either by general rules or special orders for particular cases, in such form and on such notice as the Tribunal may prescribe.

Rule 25.

It is ordered that the foregoing rules be entered in the Journal of this Tribunal and that mimeographed copies be prepared sufficient in number for the use of the Tribunal and Counsel.

Rule 26. Defense Counsel; Representing Multiple Defendants;

Maximum Representation

At no time shall defense counsel represent defendants, who have pleaded to the indictments, in more than two cases which are being tried concurrently in separate Tribunals. It is permitted, however, for the counsel to represent two or more defendants in the same case.



No adjournment or delay shall be granted any defendant upon the ground that his counsel is engaged in the trial of another case before a separate Tribunal.

In no event shall a defense attorney receive as compensation for his services in one or more cases an amount in excess of Seven Thousand (7 000) Reichsmark per month.



UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 6 FEBRUARY 1948, IN CHAMBERS


THE UNITED STATES OF AMERICA :
:
- vs. - :
:
CARL KRAUCH, et al., :
:
Defendants. :

ORDER
Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Max Ilgner	Dr. Bernhard Dietrich	Granted
Max Ilgner	Dr. Guenther Frank-Fahle	Granted
Max Ilgner	Adolf Friedrich v. Mecklenburg	Granted
Carl Krauch	General Buchnermann	Granted
Christian Schneider	Dr. Johann Giesen	Granted
Christian Schneider	Dr. Hans Kaeding	Granted


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 11 FEBRUARY 1948, IN-CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

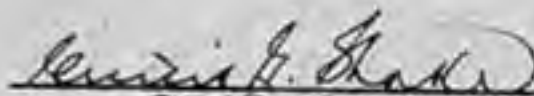
Defendants.

ORDER

Case No. 6

On considering the request of Dr. Otto Nelte, counsel for defendant Heinrich Hoerlein, that he (Dr. Nelte) be excused from attending court sessions for the period from 16 February until 1 March 1948, and statement that the interests of the defendant Heinrich Hoerlein will be looked after by Dr. Silcher during such absence,

IT IS ORDERED that said request be granted.


 Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
11 FEBRUARY 1948

THE UNITED STATES OF AMERICA :
- vs. - :
CARL KRAUCH, et al., : Case No. 6
Defendants. :

ORDER

The application of Dr. Erich Berndt, Counsel for the Defendant Ter Meer, dated 2 February 1948, to have Peter Lameth, Frankfurt/M., Marbach-Weg 311, authorized to examine the Buna Documents in the possession of the military authorities at Frankfurt, is approved subject to the following conditions:

1. Said Peter Lameth shall not be entitled to the compensation usually accorded counsel for a defendant,
2. Said Peter Lameth shall obtain proper clearances from the military authorities responsible for security,
3. The examination of said documents by said Peter Lameth shall be in accordance with the rules and regulations governing the examination of such material by counsel for defendants, as established by the custodians thereof.

Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 11th day of February 1948.

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 11 FEBRUARY 1948, IN CHAMBERS

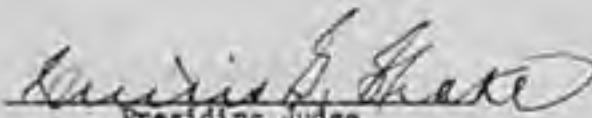
THE UNITED STATES OF AMERICA :
:
- vs. - :
:
CARL KRAUCH, et al., :
:
Defendants. :

ORDER
Case No. 6

On considering the application of the defendant below
set forth for the production of the document herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Document</u>	<u>Decision</u>
Otto Ambros	Affidavit Dr. Struss re poison gas	Granted


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 11 FEBRUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 8

On considering the application of the defendant below
 set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
 in whole or in part, or granted conditionally, in accordance with
 the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Heinrich Gattineau	Dr. Friedrich Weber	Granted

William G. Shafer
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 12 FEBRUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the application of the defendant Otto Ambros for the production of the document Dr. Savelberg's treatise "The over-costs of the Auschwitz plant",

IT IS ORDERED that said application be denied because of insufficient showing as to nature and availability of document.


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 12 FEBRUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On 3 February 1948 Tribunal approval was given for the production of Burkert Exhibit No. 51, Burkert Document No. 683, (Case No. 5), for the defendant Christian Schneider, which exhibit is a part of the official files and records of the United States Military Tribunals in the Court Archives.

Application having been made on 12 February by counsel for the defendant Schneider for approval to withdraw the aforementioned exhibit from the Court Archives for the purpose of having a photostat made,

IT IS ORDERED that said application be granted.

Harold J. Flake
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL IV
HELD 16 FEBRUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Georg von Schnitzler	Friedrich Flick	Granted

Ernest G. Shute
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 18 FEBRUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Ernst Burger	Karl Hermann Weeber	Granted
Christian Schneider	Obermeister Ernst Peantek	Granted

Wendell L. Shaw
Presiding Judge

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Nuernberg, Germany

Case No. 6

Mil. Tribunal VI

Krauch and others

ORDER APPOINTING DEFENSE COUNSEL

Fritz Gajewski, one of the above-named defendants, having requested this Tribunal that Dr. Wolfram von Metzler whose address is Nuernberg, Fuertherstr. 103, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Wolfram von Metzler be, and he hereby is, approved as attorney for said Fritz

Gajewski to represent him with respect to the charges pending against him under the indictment filed herein; *appellate*
1 February 1948.

Dated:

25 Feb 1948

Charles G. Skellie
Presiding Judge

Form MT No-1

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
26 FEBRUARY 1948

THE UNITED STATES OF AMERICA :
:
- vs. - :
:
CARL KRAUCH, et al., :
:
Defendants. :

FILED 26 Feb 1948
Case No. 6 General
10-1-48
P. 1-1-48

Pursuant to the authority vested in the Tribunal by Section (e), Article V of Military Ordinance No. 7, and in accordance with the Order of the Tribunal entered under date of 18 November 1947, designating James G. Mulroy as Commissioner to preside at and supervise the taking of the testimony of such witnesses as may, from time to time, be designated, the Tribunal hereby issues the following:

ORDER:

Testimony of all witnesses whose affidavits or interrogatories have been or which may hereafter be admitted in evidence in this case, and on which affidavits or interrogatories there has been no previous cross-examination, shall be taken before the said Commissioner and verbatim report of such testimony shall be promptly made to the Tribunal as provided in the above-mentioned Order, dated 18 November 1947.

The Secretary General shall compile and furnish to the Commissioner a complete list of all affidavits and interrogatories covered by this Order and shall upon request, or in any event weekly thereafter, furnish similar lists to the Commissioner covering any additional affidavits and interrogatories subsequently introduced in evidence.

It is further ordered:

- (a) Parties desiring to cross-examine such affiant witnesses shall promptly furnish to the Commissioner complete up-to-date lists in duplicate containing names and addresses of said witnesses together with the exhibit and document numbers of the affidavits involved; and said parties shall also weekly hereafter furnish to the Commissioner similar lists of any additional witnesses as aforesaid.
- (b) Thereupon the said Commissioner shall forthwith proceed as directed by Order of this Tribunal heretofore made and entered 18 November 1947.

MILITARY TRIBUNAL VI

James G. Mulroy
Presiding Judge

James Morris
Judge

Paul M. Hest
Judge

Charles J. Morris
Alternate Judge

Dated this 26th day of February 1948
188

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURENBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 28 FEBRUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Otto Ambros	Dr. Berthold Schnell	Granted
Carl Krauch	Hans Pritzsche	Granted


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
28 FEBRUARY 1948

THE UNITED STATES OF AMERICA :
:
- vs - : Case No. 6
:
CARL KRAUCH, et al., :
Defendants. :

O R D E R

It having been made to appear to the Tribunal that the father-in-law of the Defendant Heinrich Gattineau is seriously ill and at the point of death at Wuppertal, Germany, the Tribunal orders that said defendant may be excused from the trial and permitted to visit his said father-in-law for a reasonable time or until the further order of the Tribunal, under such restrictions and limitations as may be imposed by the military authorities in the interest of security.

MILITARY TRIBUNAL VI:


CURTIS G. SHAKE, Presiding

Dated this 28th day of February 1948

Handwritten notes:
28 Feb 1948
Gottineau
28 Feb 1948
Gottineau
28 Feb 1948
Gottineau

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
28 FEBRUARY 1948

THE UNITED STATES OF AMERICA :
- vs. - :
CARL KRAUCH, et al., :
Defendants. :

FILED / March 1948 with
Secretary General
Case No. 6

ORDER

It having been made to appear to the Tribunal that the mother of the Defendant Georg von Schnitzler is eighty-six years of age and ill, and that she has expressed a desire to see her said son,

IT IS ORDERED by the Tribunal that said defendant is hereby granted leave to absent himself from the trial and to visit his said mother at Godesberg, near Bonn in the British Zone, for a reasonable time or until the further order of the Tribunal, subject, however, to such conditions and restrictions as may be imposed by the military authorities for the purposes of security.

Curtis G. Shake

CURTIS G. SHAKE,
Presiding.

Dated this 28th day of February 1948.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
2 MARCH 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 6

ORDER

In accordance with Order of this Tribunal made and entered in the above entitled matter upon the 18th day of November 1947 in which said Order, Mr. James G. Mulroy was appointed a Commissioner of this Tribunal to preside at and supervise the taking of testimony of such witnesses as might from time to time be designated by this Tribunal on the official record of its proceedings;

And it now appearing that one of the witnesses designated as aforesaid to wit Salomon Kohn, is now a resident of Berlin, Germany and that it is necessary for his testimony to be taken by the aforesaid Commissioner;

And it further appearing that it is necessary for the following persons to be present at and attend the examination of said witness to wit: E. E. Minskoff, Assistant United States Prosecutor, two court reporters and one interpreter, to be designated by the Chiefs of the Court Reporting and Language Divisions OGC WC at Nurnberg, Germany, together with three members of Defense Counsel in the above entitled cause, to wit:

Alfred Seidel
Karl Hoffmann
Rolf W. Mueller;

and the Tribunal being fully advised in the matter, Now Therefore,

IT IS HEREBY ORDERED that the said Commissioner, James G. Mulroy, be and he is hereby authorized and directed forthwith, or at the earliest practicable date, to proceed to the City of Berlin, Germany, accompanied by the above mentioned persons and, thereafter, in said City proceed with the oral examination of the aforesaid witness, and the Secretary General is hereby requested to make such arrangements as may be necessary for the transportation and billeting of all of the said parties in or between the Cities of Berlin and Nurnberg, Germany.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 2nd day of March 1948.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
6 MARCH 1948

THE UNITED STATES OF AMERICA	:	
	:	
- vs. -	:	
	:	Case No. 6
CARL KRAUCH, et al.,	:	
	:	
Defendants.	:	

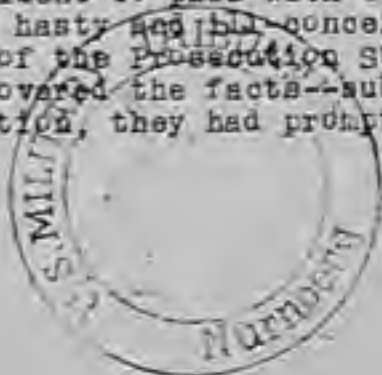
ORDER

Having considered the Prosecution's Application, dated 26 February 1948, for the Production of Documents, the Defendants' Answer thereto, the Prosecution's Reply, and the Supplemental Affidavit of Dr. Wolfgang Alt, presented on 6 March 1948, the Tribunal now announces its ruling on said application:

While the Prosecution's Application is very broad in its implications, the only specific charges contained therein, which are supported by any such showing of facts as merit the consideration of the Tribunal, relate exclusively to documentary material pertaining to Farben's Ludwigshafen Plant in the French Occupation Zone. We find nothing in the record to indicate that there has been anything culpable or improper on the part of anyone in connection with the circumstances under which any documents were removed from Griesheim to Ludwigshafen or under which papers at Ludwigshafen were destroyed. It further appears that only a comparatively small number of documents are involved in this controversy and that these have since been deposited in the Office of the Secretary General or returned to the files at Ludwigshafen, where they are accessible to all parties concerned.

It does affirmatively appear, however, that Dr. Wolfgang Alt has for some time been acting in a dual capacity, namely, as an assistant counsel for a defendant in this case and as a technical advisor to the present management of the Ludwigshafen Plant. If the obligations thereby voluntarily assumed by Dr. Alt were not, in fact, incompatible, they did, at least, impose upon him the positive duty of circumspect conduct in respect to the handling of documentary material that thereby came under his control. His conduct in intermingling such documents with his personal papers and concealing the former, at the plant or elsewhere, justifies a reprimand.

Nor can we permit this incident to pass without taking notice of what we regard as hasty and ill-conceived action on the part of the members of the Prosecution Staff here involved. If, when they discovered the facts--subsequently set forth in their Application, they had promptly



- 2 -

come to this Tribunal for redress, instead of taking matters into their own hands by threatening potential witnesses with arrest and participating in an unwarranted violation of the privacy of the home of a member of the staff of defense Counsel, they would have reflected greater credit upon themselves and the responsible positions they occupy.

If counsel for both sides will in the future carefully observe the rules pertaining to the production and handling of evidentiary documents and, at the same time, remember that as officers of the court they share responsibility with the members of this Tribunal for the orderly administration of justice, such unfortunate incidents as this will not again occur.

There is nothing in the record reflecting upon the honor or professional integrity of counsel for the defendants, generally, and they need not answer further.

The Application of the Prosecution is now dismissed.



Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 8th day of March 1948

MILITARY TRIBUNALS

Nuernberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VI

Krauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Hugo Schramm, counsel~~xxx~~ on the General Staff
for ~~xxxx~~ the above-named defendants, having requested this Tribunal
that Dr. Emil Secherling, whose address is
Oberursel a. Taunus, Lindenstr. 2, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Emil Secherling be,
and he hereby is, approved as assistant attorney for said
Dr. Hugo Schramm to represent ^{the defendants} ~~xxx~~ with respect to the
charges pending against ^{them} ~~xxx~~ under the indictment filed herein.

Dated:

9 Mar. 1948

Ernest J. Stark
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 11 MARCH 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the defendant below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Wilhelm Mann	Ernst Bernau	Granted
Wilhelm Mann	Dr. Albert Fischer	Granted
Wilhelm Mann	Ulrich Laufmann	Granted
Wilhelm Mann	Dr. Gerhard Peters	Granted
Wilhelm Mann	Dr. Koloman Hoka	Granted
Wilhelm Mann	Hermann Schlosser	Granted

Curtis E. G. Harte
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
15 MARCH 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On considering the application of Dr. Werner Schubert, counsel for the defendant Ernst Buergin, for permission for defense witness Julius Franz who was approved for the defendant Buergin by the Tribunal on 24 January 1948, and who is under automatic arrest due to his formal membership in the SS, be granted a 5 days' leave for the purpose of examining documents in Griesheim,

IT IS ORDERED that said application be approved, subject to decision of military authorities respecting security.

Curtis G. Shake

CURTIS G. SHAKE,
Presiding.

Dated this 15th day of March 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
16 MARCH 1948

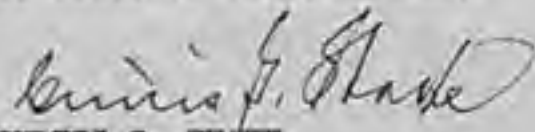
THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

ORDER

The Tribunal on its own motion hereby designates the proper medical authorities of the 317th Station Hospital at Wiesbaden, Germany, to examine the Defendant CARL LAUTENSCHLAGER and to report the result of their examination to the Tribunal for its information.

The Tribunal especially desires a complete report as to the mental condition of said defendant, with particular reference as to whether his state of mind is such that he can make a defense and, if he so desires, testify as a witness in his own behalf. In that connection, the Tribunal wishes to be advised as to the findings of the medical authorities from a medical point of view, leaving it to the Tribunal to draw the ultimate inferences as to whether the defendant can make a defense and testify if he so desires.

In order to facilitate said examination, authority is hereby granted for the removal of said defendant from the prison at Nurnberg, to the 317th Station Hospital at Wiesbaden. The Secretary General is requested to take the necessary steps for the removal of the defendant to said hospital subject to such security measures as the proper military authorities may deem to be necessary and proper under the circumstances. Said defendant is to be returned to the Nurnberg prison upon the completion of said examination or the further order of the Tribunal.


CURTIS G. SHAKE,
Presiding.

Dated this 16th day of March 1948.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
17 MARCH 1948

THE UNITED STATES OF AMERICA :
- vs. - :
CARL KRAUCH, et al., :
Defendants. :

FILED 19 March 48 with
Case No. 6

In order to discharge the obligation resting upon it to achieve an expeditious hearing of the issues and to avoid unreasonable delay, (Military Government Ordinance Number 7, Article VI), the Tribunal finds it necessary to issue the following:

ORDER:

1. Judge Johnson J. Crawford is hereby appointed a Commissioner of this Tribunal to preside at and supervise the taking of the testimony of such witnesses as may hereafter, from time to time, be designated by the Tribunal on the official record of its proceedings.
2. Before assuming his official duties hereunder the said Judge Johnson J. Crawford shall take, subscribe to and file with the Secretary General an oath or affirmation to the effect that he will honestly, faithfully and impartially perform and discharge his duties as such Commissioner.
3. Said Commissioner shall have power to administer oaths, take evidence; enforce the attendance of witnesses, parties and counsel; preserve good order; fix and determine the time of his hearings; and do all other things reasonably necessary to the proper administration of his office; all subject to the directions of the Tribunal and review by the Tribunal for good cause shown.
4. The said Commissioner shall cause a verbatim report of his proceedings, including the testimony and evidence taken before him, to be properly recorded, reported, certified to, and filed in the Office of the Secretary General. All evidence so reported by the Commissioner shall be considered by the Tribunal as of the same force and effect as evidence heard by the Tribunal in open court. The Commissioner shall also cause an appropriate number of copies of all such testimony and evidence, in the German and English languages, to be made available for the use of the Tribunal and counsel in this cause.
5. It shall be the duty of the Secretary General and the Marshal of the Tribunal to make available to said Commissioner such facilities, services and accommodations as may be reasonably necessary for the proper discharge of his official duties.

- 2 -

6. This Order is without prejudice to the power and authority of the Tribunal to modify or rescind the same at its pleasure.

MILITARY TRIBUNAL VI:

Ernest B. Shadle
Presiding Judge

James M. Mow
Judge

Samuel H. Hest
Judge

Charles F. Mowell
Alternate Judge



Dated this 17th day of March 1948

DEFENSE NOTIFIED

18 March 48

PROSECUTION NOTIFIED

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
17 MARCH 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On 11 March 1948, Rudolf Aschenauer, counsel for the Defendant Heinrich Gattineau in Case 6, before Tribunal VI, filed in the Office of the Secretary General for the attention of the Supervisory Committee of Presiding Judges, a petition asking for a plenary session of the judges of all the Tribunals to declare Control Council Law No. 10 invalid.

The jurisdiction of the Supervisory Committee of Presiding Judges to convene a plenary session is limited by Article V-B of Military Government Ordinance No. 7 as amended by Ordinance No. 11 to those instances in which interlocutory or final rulings of the Tribunals are in conflict or are inconsistent.

It affirmatively appearing that there has been no determination with respect to the invalidity of said Control Council Law No. 10 by any Tribunal, the said petition must be dismissed for want of jurisdiction.

IT IS SO ORDERED.

Walter G. Thacker
Executive Presiding Judge

Walter G. Thacker
Presiding Judge, Tribunal II

Walter G. Thacker
Presiding Judge, Tribunal III

Walter G. Thacker
Presiding Judge, Tribunal IV

Walter G. Thacker
Presiding Judge, Tribunal V

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 17 MARCH 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 5

On considering the application of the defendant below
set forth for the summoning of the witness herein indicated.

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Wilhelm Mann	Dr. Walter Heerdt	Granted


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 17 MARCH 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

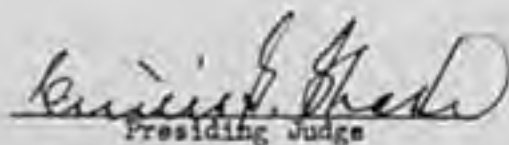
Defendants. :

ORDER

Case No. 6

The Prison Physician having requested that the defendant Otto Ambros be transported to the City Hospital for one day in order to be given an Electrocardiograph,

IT IS ORDERED that said request be approved.


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 18 MARCH 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.


ORDER

Case No. 6

On considering the application of the defendant below
set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Walter Duerfeld	Baar von Baarenfels	Granted


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 18 MARCH 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 5

On considering the applications of the defendant below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Friedrich Jaehne	Dr. Otto Hirschel	Granted
Friedrich Jaehne	Hans Poehn	Granted

Carroll H. Thorne
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
24 MARCH 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

FILED 23 Mar 1948 with
Case No. 6 of General

ORDER

With reference to the Order of the Tribunal, dated 26 February 1948, referring certain matters to James G. Mulroy as Commissioner for the taking of testimony,

IT IS HEREBY FURTHER ORDERED until the further order of the Tribunal, all testimony to be taken pursuant to the said Order of 26 February 1948, shall be taken before Judge Johnson T. Crawford, appointed Commissioner of this Tribunal by Order dated 17 March 1948.

Ernest J. Hare
Presiding Judge

James Mulroy
Judge

James M. Herbert
Judge

Charles F. Mendenhall
Alternate Judge

Dated this 24th day of March 1948

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 25 MARCH 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied, in whole or in part, or granted conditionally, in accordance with the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Wilhelm Mann	Dr. Herbert Rauscher	Granted

Wendell E. Gaud
 Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
29 MARCH 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

FILED 3/31/48
Secretary General
Case No. 6
for Military Tribunals
Defense Center

ORDER

It having been made to appear to the Tribunal that the mother of the Defendant Georg von Schnitzler died on the twenty-seventh day of March,

IT IS ORDERED by the Tribunal that said defendant is hereby granted leave to absent himself from the trial and to attend the funeral of his said mother at Bad Godesberg, near Bonn in the British Zone, for a reasonable time or until the further order of the Tribunal, subject, however, to such conditions and restrictions as may be imposed by the military authorities for the purposes of security.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this twenty-ninth day of March 1948

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 30 MARCH 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied, in whole or in part, or granted conditionally, in accordance with the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Wilhelm Mann	Karl Weigandt	Granted

Lawrence J. Shatto
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
31 MARCH 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 319 Mar 1948 with
Secretary General
for Military Tribunals
Defence Center

On consideration of the application of Dr. Karl Hoffmann, counsel for the Defendant Otto Ambros, supported by letters from His Eminence, the Bishop of Speyer and the Vicar of St. Trinity at Ludwigshafen, it is

ORDERED: that

The Tribunal hereby gives its consent to the Defendant Otto Ambros attending the ceremonies incident to the First Communion of his nine-year old daughter, Ursula, at Saint Trinity Church, Ludwigshafen-on-the-Rhine, on Sunday, 4 April 1948, subject, however, to the availability of transportation facilities and such conditions and restrictions as the military authorities may see fit to impose in the interest of security.

Curtis G. Shake

CURTIS G. SHAKE
Presiding

Dated this 31st day of March 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
31 MARCH 1948

THE UNITED STATES OF AMERICA :
- vs -
CARL KRAUCH, et al.,
Defendants :

FILE 39 Mar 1948
Case No. 6

ORDER

The request filed by Dr. Plaechnner, Counsel for Defendant Bueterfisch, on 24 March 1948, asking that time for delivery of documents to Defense Center be extended to 26 April 1948, has been duly considered; it is the judgment of the Tribunal that the privilege of having documents processed by the Defense Center is amply protected in the order heretofore made by the Tribunal in that regard. Inasmuch as evidence on behalf of Defendant Bueterfisch has already been presented subject to the reservation of right of submission of additional documents, the Tribunal now denies said request but affirms its assurance that it will consider and pass upon any request for the processing of additional documents if and when they are ready for processing and written request to the Tribunal for processing such documents is made in accordance with the orders of the Tribunal dated 27 February 1948 and 22 March 1948.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 31st day of March 1948.

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

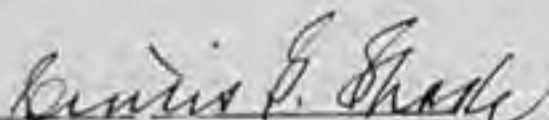
Dr. Walte, counsel for Hoerlein
 one of the above-named defendants, having requested this Tribunal
 that Dr. Heinrich Hendus, whose address is
 Fulda, Hirtersrain 1, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Heinrich Hendus be,
 and he hereby is, approved as assistant attorney for said

Hoerlein to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

7 Apr 1949



Presiding Judge

MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Hoffmann, counsel for Otto Ambros
 one of the above-named defendants, having requested this Tribunal
 that Dr. Hermann Munsel, whose address is

Palace of Justice, Room 558 a, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Hermann Munsel be,
 and he hereby is, approved as assistant attorney for said

Otto Ambros to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated: 7 Apr. 1949

Samuel B. Hunter
 President Judge

MILITARY TRIBUNALS

Munich, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Hoffmann, counsel for von der Heyde
one of the above-named defendants, having requested this Tribunal
that Dr. Josef Koessl, whose address is

Palace of Justice, Room 537, he entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Josef Koessl be,
and he hereby is, approved as assistant attorney for said

von der Heyde to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 2 Apr 1948

Samuel G. Shalle
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
2 APRIL 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

FILED *2 April 1948* with
Secretary General
Case No. 6, Tribunal
Defense Counsel

ORDER

ORDERED that the petition of Dr. Heinrich von Rospatt, counsel for the Defendant Carl Krauch, dated 25 March 1948, asking leave to withdraw from the Secretary General's files the original certificates attached to his Exhibit 161 (Document Number 112, Krauch Document Book VIII) and to substitute for said certificates copies thereof, duly certified by said counsel, is now granted.

Curtis G. Blake
CURTIS G. BLAKE
Presiding

Dated this 2nd day of April 1948

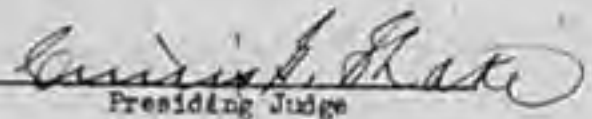
UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 2 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA
- vs. -
CARL KRAUCH, et al.,
Defendants.

ORDER
Case No. 6

On considering the application of the defendant Fritz
Ter Meer for the summoning of the witness Dr. Struss,

IT IS ORDERED that said application be denied, since
witness will be available for further examination before the
Commissioner.


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
2 APRIL 1948

THE UNITED STATES OF AMERICA

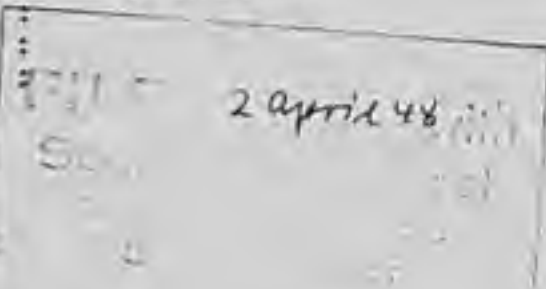
- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 6

ORDER



The request filed by Dr. Hoffmann, Counsel for Defendant von der Heyde, on 19 March 1948, asking that time for delivery of documents to Defense Center be extended to 15 April 1948, has been duly considered; it is the judgment of the Tribunal that the privilege of having documents processed by the Defense Center is amply protected in the order heretofore made by the Tribunal in that regard. The Tribunal now denies said request but affirms its assurance that it will consider and pass upon any request for the processing of additional documents if and when they are ready for processing and request to the Tribunal for processing such documents is made in accordance with the orders of the Tribunal dated 27 February 1948 and 22 March 1948.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 2nd day of April 1948

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 7 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Walter Duerrfeld	Wilhelm Josef Boymanns	Granted
Walter Duerrfeld	Georg Feigs	Granted
Walter Duerrfeld	Franz Fuerstenberg	Granted
Walter Duerrfeld	Fritz Hirsch	Granted
Walter Duerrfeld	Theophil Jastrzebki	Granted
Walter Duerrfeld	Adam Mueller	Granted
Walter Duerrfeld	Martin Nestler	Granted
Walter Duerrfeld	Kurt Roediger	Granted
Walter Duerrfeld	Helmut Schneider	Granted
Walter Duerrfeld	Hermann Stradal	Granted
Walter Duerrfeld	Dr. Werner Vaje	Granted
Walter Duerrfeld	Guenther Wagner	Granted
Walter Duerrfeld	Otto Wolter	Granted
Erich von der Heyde	Werner Grothmann	Granted
Carl Lautenschlaeger	Dr. Albert Deunitz	Granted


Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
8 APRIL 1948, IN CHAMBERS

ORDER

On 22 March 1948, Rudolph Aschenauer, as counsel for defendant Otto Ohlendorf (Case 9, Tribunal II) and defendant Heinrich Gattineau (Case 6, Tribunal VI), filed with the Secretary-General for the consideration of the Supervisory Committee of Presiding Judges a petition asking that all trials now pending before the United States Military Tribunals at Nurnberg be immediately discontinued. We are asked to convene the judges of the Tribunals in a plenary session to pass upon said petition.

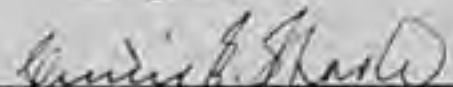
The petition is based upon the contention that Control Council Law No. 10 is no longer in effect because and on account of the alleged withdrawal of the Union of Soviet Socialist Republic from the Allied Control Council for Germany.

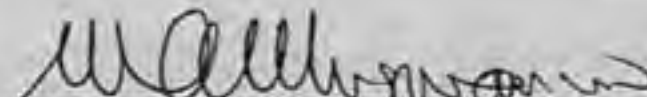
We have repeatedly pointed out that the jurisdiction of this Committee to convene a plenary session of the judges is limited by Article V B of Military Government Ordinance No. 7, as amended by Ordinance No. 11, to those instances where interlocutory or final rulings of the Tribunals are in conflict or are inconsistent. No such conflict or inconsistency is alleged in the petition.

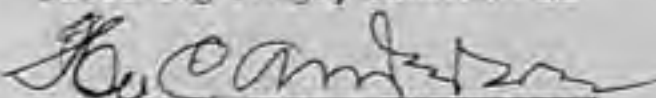
The petition herein is, therefore, insufficient in substance to invoke the jurisdiction of the Committee. It is accordingly

ORDERED:

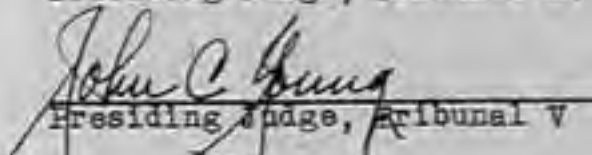
That the said petition be dismissed.


Executive Presiding Judge


Presiding Judge, Tribunal II


Presiding Judge, Tribunal III


Presiding Judge, Tribunal IV


Presiding Judge, Tribunal V

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 12 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied, in whole or in part, or granted conditionally, in accordance with the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Karl Wurster	Pedrag Vljacic	Granted

Kurtis G. Shance
By Lawrence M. Vickers
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
12 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 12 April 1948 with
Secretary General
Case No. 8
for Military Tribunals
Defense Center

ORDER

On 15 March 1948, Dr. Rudolf Dix, on behalf of all the defendants, filed a petition with the Tribunal with respect to the treatment and accommodations accorded said defendants in the prison in which they are confined.

While this matter is beyond the purview of the Tribunal, it did refer said petition to the prison director who has since made certain adjustments in the routine to which the defendants are subjected.

It appearing to the Tribunal that it has accomplished all that it can do under the circumstances, said petition is now dismissed.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 12th day of April 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
12 APRIL 1948

THE UNITED STATES OF AMERICA :
: - vs. - :
CARL KRAUCH, et al., :
: Defendants. :
:

Case No. 6
FILED 12 April 1948 with
Secretary General
Military Tribunals
Defendant Center

ORDER

The Tribunal having considered petition of Dr. Rudolf Aschenauer, counsel for the Defendant Cattineau, dated 15 March 1948, wherein said counsel requested that the Prosecution be required to make available certain documents, and it further appearing that the Prosecution has already delivered to said counsel all of such documents as are available

IT IS ORDERED that said petition be dismissed.

Curtis C. Shaker
CURTIS C. SHAKER
Presiding

Dated this 12th day of April 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
12 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 12 April 1948
Secretary General
Case No. 6 Tribunals
D. C. C. C. C.

ORDER

On consideration of the petition of Dr. Rudolf Dix on behalf of all the defendants, dated 20 March 1948, the Tribunal finds that the relief therein sought is beyond the jurisdiction of the Tribunal.

The Tribunal has heretofore indicated that it will, whenever possible, cooperate with counsel for the defendants in making it feasible for them to travel in the preparation of their case. Since no General Order would be effective, said petition is now denied.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 12th day of April 1948

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 13 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Heinrich Gattineau	Gustav Tschur	Granted

Eugene P. Hark
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
13 APRIL 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Dr. Otto Welte, Counsel for the Defendant Heinrich Hoerlein, has petitioned the Tribunal to permit Dr. Hoerlein to be absent from the trial on Wednesday, 14 April 1948, and to have him transferred to the General Hospital at Nurnberg, not later than 1200 hours on said day for a medical examination by Dr. Steichele.

It appearing to the Tribunal that this request is proper, said petition is granted and the Director of the Prison is requested to take the necessary steps to carry out this order.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 13th day of April 1948

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 16 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
 set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
 in whole or in part, or granted conditionally, in accordance with
 the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Walter Duerrfeld	Adolf Taub	Granted


 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 19 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied, in whole or in part, or granted conditionally, in accordance with the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Erich von der Heyde	Dr. Rudolf Fahr	Granted

Curtis E. Galt
 Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 20 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the several defendants below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Erich von der Heyde	Hermann Enderle	Granted
Erich von der Heyde	Hans Kasmmerer	Granted
Erich von der Heyde	Friedrich Silcher	Granted
Hans Eugler	Richard von Szilvinyi	Granted

Quintin A. Hare
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
22 APRIL 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Rulings of the Tribunal with respect to the Motions, filed 15 April 1948, by Counsel for the Defense, Rudolf Dix, regarding certain portions of the indictment pertaining to the alleged plunder of Skoda-Wetzlar and Aussig-Pulkenau; and with respect to the allegations in Count 5, relating to a common plan or conspiracy to commit war crimes and crimes against humanity.

The particulars set forth in Sections A and B of Count 2, if fully established by evidence, would not constitute a crime against humanity since these particulars relate wholly to offenses against property. Neither are they sufficient to constitute a war crime since they describe incidents in territory not under belligerent occupation by Germany.

A common plan or conspiracy does not exist as a matter of law with respect to war crimes and crimes against humanity. However, we point out that under the second paragraph of Count 5, it is alleged that the acts and conduct of the defendants set forth in Counts 1, 2 and 3, are by reference incorporated in Count 5. Therefore, evidence of such acts or conduct may, if it has probative value, be considered with respect to the alleged conspiracy or common plan to commit crimes against peace.

Ernest G. Shaker
Presiding Judge

James M. Murn
Judge

Paul M. Heiser
Judge

Charles F. Merrill
Alternate Judge

Dated this 22nd day of April 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
22 APRIL 1948

THE UNITED STATES OF AMERICA	:	
	:	
- vs. -	:	
	:	Case No. 6
CARL KRAUSE, et al.,	:	
	:	
Defendants.	:	

ORDER

Ruling of the Tribunal with respect to the Motion, filed 7 April 1948, by Counsel for the Defense, regarding making available of all documents which the Prosecution still has and which have bearing upon the person and activity of the defendants represented by it.

The allegations of the petition are so broad and general that the relief sought cannot be granted or denied in terms of the petition. The Tribunal finds, however, that the petition is sufficient to challenge the obligation resting upon it to see that the defendants have reasonable access to documents of an evidentiary character which are within the control of the Tribunal.

The Tribunal has ascertained by way of independent investigation that such documents are kept and preserved in what is known as the Document Center of the Office of Chief of Counsel for War Crimes. Security requirements preclude counsel for either side having free and unrestricted access to these documents. The Tribunal does not feel free to assume the responsibility of relaxing these security regulations.

The Tribunal has further learned that as to each of the documents contained in said Document Center, the Prosecution has what it has termed a "Staff Evidence Analyses," the first three headings of which are "Title and/or General Nature" of the document, the "Date," and the "Source." Said Staff Evidence Analyses also contain other data of a confidential nature, to which counsel for the defendants are not entitled.

The Tribunal directs the Prosecution to promptly supply Defense Counsel with copies of those parts of its Staff Evidence Analyses contained under the headings quoted herein, as to all documents in the Document Center that originated in the offices or plants of I. G. Farben, excepting, however, those pertaining to particular documents which the Prosecution, in good faith, expects to use in cross-examination or in rebuttal. With possession of these Staff Evidence Analyses counsel for the Defense will be enabled to examine and make copies of any documents in said Document Center which they deem necessary in the trial of the case. When cross-examination or rebuttal has been concluded in any instance, the Tribunal will expect the Prosecution to then make available to the Defense any and all Staff Evidence Analyses pertaining to documents which were not offered in evidence by the Prosecution.

- 2 -

The Tribunal feels that the relief herein granted will serve to make accessible to the defendants all documentary material within the control of the Tribunal to which said counsel are entitled to have access.



Frederick E. Chase
Presiding Judge

James M. Morris
Judge

Samuel M. Roberts
Judge

Charles F. Morris
Alternate Judge

Dated this 22nd day of April 1948

MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Erich Berndt, counsel for Fritz ter Meer
 one of the above-named defendants, having requested this Tribunal
 that Dr. Ernst Braune, whose address is
 Fuerth, Gebhartstr. 3, be retained and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Ernst Braune be,
 and he hereby is, approved as assistant attorney for said

Fritz ter Meer to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

22 April 1948

Gordon E. Thayer
 Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, MURNBERG, GERMANY
23 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 6

ORDER

On consideration of the petition of Dr. Schubert, counsel for the defendant Buergin, dated 2 April 1948, requesting the Tribunal to make available to said defendant all documents, papers, letters, notes and other material originating from the files, archives, registries and other storing places of the former I.G. Farben Factory Ltd. plants Bitterfeld and Wolfen Farben",

IT IS ORDERED that said counsel and defendant shall be entitled to the same rights and privileges granted to the counsel in the Order dated 22 April 1948, having particular reference to the documents on deposit in the Document Center.

Ernest B. Shurt
Presiding Judge

James Morris
Judge

Paul M. Herbert
Judge

Charles F. Morris
Alternate Judge

Dated this 23rd day of April 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
26 APRIL 1948

THE UNITED STATES OF AMERICA :
- vs. - :
CARL KRAUSE, et al., :
Defendants. :

Case No. 5

ORDER

On consideration of the motion of the defendant Gattineau, dated 17 December 1947, and 7 January 1948, which moves that the Tribunal may rule that Control Council Law No. 10 does not constitute a basis for this trial; and motion of 6 April 1948, which moves (1) that the arguments of the IMT judgment are not binding for the American Military Tribunal; (2) "in this connection" that the counts of the indictment on conspiracy and aggressive war be dropped; (3) these proceedings be immediately suspended,

IT IS ORDERED that each and all of the above motions are denied.

Quindis E. Shuman
Presiding Judge

James Moore
Judge

Samuel H. Hest
Judge

Charles J. Merrill
Alternate Judge

Dated this 26th day of April 1948

See Order dated 10 May 1948 superseding above order.
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UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 26 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the applications of the defendant below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Carl Krauch	Dr. Willi Handloser	Granted
Carl Krauch	Otto Kirschner	Granted


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
27 APRIL 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On consideration of the motion filed by Dr. Nelte on behalf of the Defendant Hoerlein, under date of 30 March 1948, which asks in the alternative that the Prosecution Exhibit 1866, NI-13590, be stricken as inadmissible or that a part of that exhibit which is identified in the motion be stricken from the exhibit as evidence in this case, the Tribunal has given consideration to that matter and now sustains the motion of Dr. Nelte insofar as it applies to that part of Exhibit 1866 which follows the signature of Dr. Newman, more particularly page 6 of the original exhibit. That part of the exhibit is now stricken from the evidence as well as all that part of the cross-examination of the Defendant Hoerlein as pertains to the part which is now stricken from the evidence.

Lawrence H. Shane
Presiding Judge

James J. Morris
Judge

Paul M. Herbert
Judge

Clare F. Morris
Alternate Judge

Dated this 27th day of April 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
27 APRIL 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Under date of 10 March 1948, supplemented by motion of 15 March 1948, Dr. Pribilla, as Counsel for the Defendant Lautenschlaeger, requested a medical examination of the Defendant Lautenschlaeger, to determine whether he was capable of continuing his defense in this case. That medical examination has been conducted and report thereon was made to the Tribunal under date of 7 April 1948, from the medical officials of the 317th Station Hospital at Wiesbaden. Subsequently, under date of 18 April 1948, Dr. Pribilla, on behalf of his client, filed a motion requesting a separation of the proceedings against the Defendant Lautenschlaeger from the other defendants in Case 6. The Tribunal has very carefully considered the facts set forth in the motions filed by Dr. Pribilla, together with the medical reports referred to, and the motion dated 18 April 1948, is hereby denied.

The Tribunal does not feel that it has been established that the defendant is incapable of properly conducting his further defense in this case.

Quinn T. Gause
Presiding Judge

James Morris
Judge

Paul M. Nebert
Judge

Charles J. Mendenhall
Alternate Judge

Dated this 27th day of April 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
27 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 18 April 1948 with
Secy. General
Case No. 8
Def. Center

ORDER

On consideration of the petition of Dr. Otto Nelte, Counsel for the Defendant Heinrich Hoerlein, dated 15 April 1948, requesting that said defendant be excused from attendance at the sessions of the Tribunal for the purpose of going to the hospital for a surgical operation.

IT IS ORDERED that said defendant is excused for such period as may be necessary on account of his physical disability.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 27th day of April 1948

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 28 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be approved for
production of witness if he is available; if not, for taking of
his deposition.

Name of Defendant

Georg von Schnitzler

Name of Witness

Jesco von Puttkamer

Quintin H. Lane
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 29 APRIL 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CAPT KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant below
 set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
 in whole or in part, or granted conditionally, in accordance with
 the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Erich von der Heyde	Gustav Adolf Noeske	Granted

Amirick E. Hand
 Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
30 APRIL 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On 27 April 1948, Dr. Otto Nelte, Counsel for the Defendant Heinrich Hoerlein, filed a petition asking that the documents offered by the Prosecution and rejected by the Tribunal should be marked on the originals in the Document Room to indicate the rulings of the court.

The Document Room is a depository for documents generally. The documents of which this Tribunal is concerned are in the files of the Secretary-General. The latter group of documents have been and will be marked to indicate the action of the Tribunal with respect thereto. The documents in the Document Room, are not, strictly speaking, before the Tribunal.

The above motion is therefore denied.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 30th day of April 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
4 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Under date of 1 April 1948, Dr. Karl Hoffmann, as attorney for the defendant von der Heyde, filed a motion requesting that the Tribunal rule "that the fact of the extermination program of Jews, in spite of rumors and the knowledge individual persons had about it, admits of no presumption that each member of an organization declared criminal by the DTF had knowledge about that and that it is for the prosecution to prove specific knowledge in every single case."

The motion suggests that a preliminary decision in the nature of a ruling on this matter of law would serve to expedite the trial of the case. The Tribunal has had this motion under consideration. It amounts to a request to the Tribunal to enter at this time an interlocutory ruling of substantive law applicable to Count IV of the indictment.

The Tribunal expresses no opinion as to the correctness or the incorrectness of the matter of law here advanced as this time. This question will be referred to consideration in the final judgment. Moreover the evidence on behalf of the defendant von der Heyde has been presented since the filing of the motion so the motion filed by Dr. Hoffmann under date of 1 April 1948 is here and hereby overruled.

Quentin B. Shaker
Presiding Judge

James M. Morris
Judge

James M. Hebert
Judge

Clarence T. Morris
Alternate Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
4 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Ruling of the Tribunal in regard to two motions filed by Dr. Lummert on behalf of his client, the defendant Kuehne follows.

The first motion was dated 20 April 1948, and filed in the office of the Secretary-General on 28 April 1948, and refers to Exhibits 2072, 2074, and 2079, introduced by the Prosecution in the course of the cross-examination of the defendant Kuehne.

The second motion refers to Exhibits 2064 through 2070, Exhibit 2073, Exhibits 2075 through 2078, and Exhibits 2080 through 2083. The motion is in the alternative, asking the Tribunal to reject the enumerated exhibits as not being proper rebuttal or, if the motion is overruled, to provide certain relief to the defendant with respect to the exhibits, that I shall notice presently.

The motion to strike the exhibits mentioned as being improper cross-examination or rebuttal is now overruled by the Tribunal. In the alternative the counsel has asked that if the motion is overruled, that the Tribunal make available to counsel all of certain of the documents with respect to which only a part of the documents were offered in evidence by the Prosecution.

As to the latter feature, the defendant is entitled to offer the entire document if it is pertinent, since the Prosecution has offered a part of the document. It is not necessary for the Tribunal to make a specific order for the processing of those documents. They are in the files and will be processed and made available to counsel for the defendant in due course if he determines that he needs them.

Ernest S. Shupe
Presiding Judge

James M. Moore
Judge

James M. Hersh
Judge

Charles T. Merrill
Alternate Judge

Dated this 4th day of May 1948 243

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
4 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On 22 March 1948, Dr. Rudolf Dix, attorney for the defendant Hermann Schmitz, filed with the Secretary-General a motion dated 16 March 1948, to strike Prosecution Exhibit #334, Document NI-5187, so far as the statement of the defendant Hermann Schmitz of 17 September 1945, is contained therein.

The defendant Schmitz has not taken the witness stand and has, therefore, not subjected himself to examination and cross-examination.

Prosecution Exhibit #334 is an affidavit of the defendant Friedrich Hermann ter Meer, in which the affiant purports to set forth the text of a written statement made by the defendant Schmitz pertaining to matters material to the issues in this case.

The defendant Schmitz contends that his purported statement should be stricken from the affidavit of the defendant ter Meer because: (1) It was not voluntarily made; (2) That it is contained in an affidavit and that affidavits may not be admitted in evidence.

With respect to the first point, the defendant Schmitz quotes from Order #1 of the Military Government for the American Occupation Zone, dated 16 August 1945, as follows:

"The following offenses are punishable by such penalty other than death as a Military Government Court may impose:

* * * * *

33.) Knowingly making any false statement, orally or in writing, to any member of, or person acting under the authority of, the Allied Forces in a matter of official concern, ~~or in any manner~~ defrauding, or refusing to give information required by, Military Government."

This Tribunal has ruled heretofore that a relevant statement of a defendant may be admitted in evidence against that defendant as an admission against interest whether the

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defendant takes the stand or not unless the statement was made under such duress as to make it appear that it is not a voluntary statement of the defendant.

In this instance we have re-examined the record regarding the statement of the defendant Schmitz and find that it was a voluntary statement. The defendant, however, contends that because of the order above referred to, the statement must be deemed to have been made involuntarily, since, under the terms of the order, the defendant was required to answer questions put to him.

There is no showing that Order #1 was called to the attention of the defendant Schmitz or that he knew of it and had it in mind when he made the statement in question. He does not contend in his showing in support of the motion that he knew of the order or that it influenced him in making the statement. In fact, the circumstances disclosed by the record point to the contrary and it appears that the statement was made on the part of the defendant Schmitz of his own volition and without duress.

The defendant's second point challenges the rule of this and of other major War Crimes Tribunals that relevant affidavits are admissible in evidence if otherwise competent. We adhere to that rule.

The motion of the defendant Schmitz is overruled.



Lucius S. Shale
Presiding Judge

James Moore
Judge

James M. Hest
Judge

Charles A. Woodell
Alternate Judge

Dated this 4th day of May 1948

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKrauch and others

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Rudolf Dix, counsel for Schmitz
 one of the above-named defendants, having requested this Tribunal
 that Dr. Guenther Lummert, whose address is
 Palace of Justice, be entered and approved
 on the records of the Military Tribunal as his assistant,

IT IS ORDERED that the said Dr. Guenther Lummert be,
 and he hereby is, approved as assistant attorney for said
 Schmitz to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

4 May 1948

James G. Sharpe
 Presiding Judge

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Case Number 6

Against

Tribunal No. VIKranich and others

CHIEF APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Otto Melte, counsel for Hoerlein
 one of the above-named defendants, having requested this Tribunal
 that Dr. Ernst Braune, whose address is
 Fuerth, Gebhardtstr. 3, be entered and approved
 on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Ernst Braune be,
 and he hereby is, approved as assistant attorney for said
 Hoerlein to represent him with respect to the
 charges pending against him under the indictment filed herein.

Dated:

5 May 1948

Quinn T. Shadle
 Presiding Judge

MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

Case No. 6

Against

Mil. Tribunal VI

Krauch

and others

ORDER APPOINTING DEFENSE COUNSEL

Hans Kuehne, one of the above-named defendants, having requested this Tribunal that Dr. Herbert Nath whose address is Rothenburgerstr. 50, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Herbert Nath be, and he hereby is, approved as attorney for said Hans Kuehne to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 5 May 1948


 Presiding Judge

Form MT No-1

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 8 MAY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :
 :
 - vs. - :
 :
 CARL KRAUCH, et al., :
 :
 Defendants. :

ORDER
Case No. 6

On considering the application of the defendant below
set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied,
in whole or in part, or granted conditionally, in accordance with
the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Otto Ambros	Dr. Hans Muench	Granted


Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
10 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUSE, et al., :

Defendants. :

Case No. 6

ORDER

The following order is issued superseding and correcting the order of 26 April 1948, filed 5 May 1948:

On consideration of the motion of the defendant Gattineau, dated 17 December 1947, which moves that the Tribunal may rule that Control Council Law No. 10 does not constitute a basis for this trial; motion dated 7 January 1948, in which it is requested to acquit the defendant Gattineau and release him from his detention before the trial will be continued; and motion of 5 April 1948, which moves (1) that the arguments of the IMT judgment are not binding for the American Military Tribunal; (2) "in this connection" that the counts of the indictment on conspiracy and aggressive war be dropped; (3) these proceedings be immediately suspended,

IT IS ORDERED that each and all of the above motions are denied.

Frederick B. Drake
Presiding Judge

James M. Morris
Judge

James M. Hubert
Judge

Clarence M. M. M.
Alternate Judge

Dated this 10th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
11 MAY 1948

THE UNITED STATES OF AMERICA	:	
	:	
- vs. -	:	
	:	Case No. 6
CARL KRAUCH, et al.,	:	
	:	
Defendants.	:	

ORDER

On consideration of the motion filed 5 May 1948, by Dr. Rudolf Dix, representing all of the defendants, and with respect to statements heretofore made by the Tribunal as to affidavits of defendants who have not taken the witness stand and therefore have not subjected themselves to examination and cross-examination, the motion proposes that these affidavits be stricken with respect to defendants other than the affiants.

The Tribunal rules with respect to such affidavits, being those of the defendants von Schnitzler and Lautenschlaeger, that the consideration of the affidavits of these affiants who have not taken the witness stand, is restricted to the affiants, and such affidavits are not considered as evidence against defendants other than the affiants themselves.

The motion also includes an affidavit of Dr. ter Meer, Document MI 5187, being Prosecution's Exhibit 334, dated 22 April 1947, in which Dr. Ter Meer sets forth a quotation from a statement given to him by Dr. Schmitz, which the affiant ter Meer discusses at considerable length in his affidavit.

It is the opinion of the Tribunal, and it therefore rules, that the entire affidavit of Dr. ter Meer, who did go on the witness stand, is admissible in evidence and will be considered with respect to all defendants, and that the statement of Dr. Schmitz will not be stricken therefrom as requested by the motion. (The motion herein considered and this Order deal exclusively with the admissibility generally of affidavits made by defendants who did not take the witness stand and has no reference to the motion of the defendant Schmitz to exclude his statement of 17 September 1945 upon the ground that it was given under duress.)

Carroll G. Chase
Presiding Judge

James Morris
Judge

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Judge

Dated this 11th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
11 MAY 1948

THE UNITED STATES OF AMERICA :
 :
vs. :
 :
CARL KRAUCH, et al., :
 :
Defendants :

Case No. 6

The attached six pages were made a part of the record during the proceedings of Tribunal VI, on the morning of 11 May 1948, by reference by Alternate Judge Clarence F. Merrell, and after quoting several paragraphs from such statement, it was filed with the Deputy Secretary General in Court VI as a part of the record of the proceedings in open court on 11 May 1948. Reference to such statement was made in connection with ruling just announced by the majority of the Tribunal and after Judge Paul M. Hebert had expressed his dissent and before Judge Curtis G. Shake had expressed agreement with the majority of the Tribunal as stated by Judge James Morris.

The attached six pages should be made a part of the record in Case No. 6 in accordance with the proceedings had in open court on this day as above indicated.

Clarence F. Merrell
CLARENCE F. MERRELL
Alternate Judge

Dated this 11th day of May 1948

Having in mind my contingent responsibility as an alternate member of this Tribunal, it has become incumbent upon me to state for the record my position on the question concerning the admissibility of affidavits as to which the Tribunal by a majority of its members has made a ruling.

First a word as to what I mean by the phrase,--"my contingent responsibility as an alternate member of this Tribunal." My position is such that full responsibility for sharing in the decisions of the Tribunal would be imposed upon me only if one of the regular Judges of the Tribunal should for some reason become indisposed and could no longer serve. It is a possibility--and it is my hope and prayer that it will not occur--that I may be called upon to assume the place of any one of the three regular members of the Tribunal. From that time, I should share direct responsibility for the final determination and judgment of this Tribunal.

In the event of such a contingency, and if a majority of the Tribunal as newly constituted should not agree with rulings made by the Tribunal as previously constituted concerning any question having an important bearing upon the determination of the final judgment, the Tribunal as then made up would find itself in this dilemma, the necessity of choosing between these two courses of procedure: (1) to accept the ruling already made and render final judgment on the record as thus made even though a majority of the Tribunal as constituted should not agree with the ruling already made, thus being responsible for a result which might have been different except for the ruling previously made; or (2) to reconsider the previous ruling and overrule it and proceed with the trial in the light of such new ruling, resulting in a final determination and judgment according to the views of the Tribunal newly constituted which would have full responsibility for the final result. In the light of that prospect, I cannot



close my mind to the possible effects which the rulings of this Tribunal, made during the trial, may have on the final result.

The ruling of the Tribunal that affidavits of those defendants who do not take the stand as witnesses will not be considered as to other defendants is a corollary to the ruling of the Tribunal that affidavits of affiants will not be admitted upon a showing that such affiants are not available for cross-examination.

I agree with the opinion as expressed by Judge Lebert, on December 2, 1947, that the admissibility of affidavits should not depend upon the availability of the affiant as a witness for the purpose of cross-examination. A thorough study of the provisions of the Charter, Control Council Law No. 10 and Ordinance No. 7, prescribing rules of procedure for these Tribunals, and precedents established by other Tribunals administering international law, convinces me that in keeping with the expressed intent of the law to avoid technical rules of evidence and to admit any evidence deemed to have probative value, affidavits should be received in evidence without regard to whether the affiant is available for cross-examination. Of course it must be recognized that in the search for truth, cross-examination is an important help. However, even without cross-examination, the sworn statement given by one conscious of the possibility of penalty for a false statement has a certain weight beyond that of the ordinary voluntary statement given without the sanction of an oath. The lack of cross-examination goes to the weight of the evidence and not to its admissibility. As a statement given in the form contemplated by the Ordinance, the affidavit should be admitted so that it can be considered in the light of all the circumstances and given such weight as, in the sound judgment of the Tribunal, it is entitled to receive.

Experience during the progress of this trial has demonstrated that, to enable the parties to have a fair trial and to present



evidence which they regard as important, it is necessary, under the novel and difficult conditions which have existed and continue to exist in Europe, to broaden the rules of evidence and to relax them in favor of admitting evidence which under the technical rules of evidence with which the members of the Tribunal are familiar would not be admitted. Accordingly, during the course of this trial, there has been a gradual relaxation of the rules of evidence as the case has progressed and experience has demonstrated that in fairness to the parties, especially to the defendants, such rules should be relaxed.

However, although in Schmitz Document Book No. III there is set out an affidavit by Goering, Counsel for the defendant Schmitz, when he came to that document in the presentation of evidence, stated he would not offer it in view of the ruling of the Tribunal excluding affidavits of persons not available for cross-examination, inasmuch as affiant Goering was deceased. Thus defendant Schmitz was deprived of a bit of evidence which he evidently regarded as having probative value on his behalf. The same can be said in regard to the affidavit of General Thomas offered and then withdrawn by Counsel for defendant von Schnitzler because of the ruling of the Tribunal concerning affidavits of affiants now deceased.

The test as to admissibility of evidence laid down in the Charter and applied by the IMT is its "probative value." In Ordinance No. 7 creating these Tribunals, it is expressly provided that the Tribunals "shall admit any evidence which they deem to have probative value." If it has any probative value concerning any issues in the case, it should be received and given such weight as in the judgment of the Tribunal it deserves. Such a touchstone of admissibility affords a simple rule and assures all parties a fair, full and impartial trial without imposing on either party the encumbering and disabling requirements of technical rules of evidence.



The fairness and the propriety of the test of probative value for the admissibility of evidence, including affidavits, instead of the ruling being applied by this Tribunal, has been demonstrated by experience in this case. There were 279 affidavits introduced and admitted in evidence on behalf of the Prosecution; of those, 72 affiants were produced in open court for cross-examination before the Tribunal; cross-examination of 14 of such affiants was conducted before the Commissioner appointed by the Tribunal; the cross-examination of 19 was waived by the Defense. Thus all affiants whose affidavits were introduced by Prosecution were cross-examined by Defense unless waived.

On behalf of the defendants, a total of 2,363 affidavits have been introduced; of those affiants Prosecution has requested that 72 be produced for cross-examination; to date 29 of them have been produced and have been cross-examined, and 6 more may be produced and cross-examined within the time allowed. Of the defense affidavits, approximately 865 were introduced after 14 April, approximately 400 during the last week of the trial, and 115 during the last two days. Cross-examination of 97 defense affiants has been expressly waived. Inasmuch as under the schedule for the production of evidence, time has been reached for the conclusion of all evidence, it is obvious that the Prosecution is not afforded the privilege of cross-examining the balance of those affiants under the schedule being applied. The result is that while the Defense have had the privilege of cross-examining all affiants unless they waived it, the Prosecution will have been able to cross-examine only 35 and will not have the privilege of cross-examining the others even though they have made such request. That result was reached even though the provisions of Article 11 of Ordinance No. 7, with reference to cross-examination, apply equally to evidence produced by Defense and Prosecution. The defense has had the privilege of cross-examination; the Prosecution has had that privilege only to a limited degree. Under the ruling of this Tribunal, consistency would prompt the striking from the record of all defense affidavits of those affiants whose

cross-examination has been requested and who have not been available for such cross-examination within the time permitted by the Tribunal for the presentation of evidence.

My studies have convinced me that the ruling of this court is contrary to the practice established and followed by various other courts and tribunals having the responsibility of trying persons charged with violation of international law. There have been, and are, many such tribunals, including: the International Military Tribunal which sat here in Nurnberg; the Far Eastern Tribunal sitting in Tokyo; British Military Courts; United States Military Commissions; Canadian and Australian War Crimes Courts; and the French Military Tribunals. More than one thousand trials have been conducted by those courts.

The rules of evidence followed by those tribunals establish a balance between their dual responsibility of protecting the fundamental right of the accused individual to a fair trial and of insuring that "no guilty person will escape punishment by exploiting technical rules." The tribunals recognize that "the circumstances in which war crimes trials are often held make it necessary to dispense with certain rules followed in ordinary criminal law." A controlling factor in that regard as to affidavits is the unavailability of witnesses at the time of trial but who have given affidavits. For that reason the practice has been generally established and followed of admitting affidavits even though the affiants are not available for cross-examination. Under such circumstances, however, it is pointed out that the tribunal takes into consideration the fact that the affiant has not been cross-examined in determining the weight to be given the statements in such affidavits.¹

The ruling of the Tribunal as to affidavits of defendants who do not take the witness stand is in effect that the affidavit

¹ See pages 330-342, Report of United Nations War Crimes Commission to the United Nations, November, 1947.

is to be regarded as admissible only as a declaration made by such defendant and not by virtue of the fact that it is an affidavit; under the ruling as made, the fact that it was given under oath does not give it such character as to entitle it to be considered as evidence although so provided by Ordinance No. 7.

The situation thus created comes into clear focus when the effect of the announced intention of defendants Schmitz, von Schnitzler and Lautenschlaeger not to take the stand as witnesses is considered. There are in the record several affidavits given by those defendants. If they follow their announced intention and remain mute and silent throughout this trial and the ruling of the Tribunal as stated is followed, all those statements can be considered as to those respective defendants themselves but the statements in all those affidavits concerning other defendants must be ignored by the Tribunal in determining the innocence or guilt of the other defendants. Thus by the free voluntary choice of those defendants a substantial amount of testimony by those peculiarly in a position to know the facts becomes unavailable to the Tribunal and is rendered a nullity whether it tends to exonerate or implicate their co-defendants. That extreme result indicates the invalidity of the ruling as made.

The ruling, in my mind, is a contradiction of the clear intent of the Charter, a nullification of the provisions of the Ordinance binding upon this Tribunal, and contrary to the procedure established and followed by other tribunals enforcing international law. It is my opinion that the affidavits should be considered as evidence as to any defendant to whom they refer directly or indirectly even though the defendant giving the affidavit is not cross-examined by or on behalf of the defendant thus referred to, and given such weight as under the circumstances, including lack of cross-examination, in the sound discretion of the Tribunal they deserve.



UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 11 MAY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the applications of the defendant below set forth for the summoning of the respective witnesses herein indicated,

IT IS ORDERED that said applications be granted or denied, in whole or in part, or granted conditionally, in accordance with the decisions of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
August von Knieriem	Georg Belz	Denied
August von Knieriem	August Feuser	Denied
August von Knieriem	Karl Lehmann	Denied
August von Knieriem	Erich Piwowarskyk	Denied
August von Knieriem	Walter Roettger	Denied
August von Knieriem	Hermann Walter	Denied

Leixis B. Thane
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 13 MAY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

ORDER

Case No. 6

On considering the application of the defendants below set forth for the summoning of the witness herein indicated,

IT IS ORDERED that said application be granted or denied, in whole or in part, or granted conditionally, in accordance with the decision of the Tribunal as below set forth:

<u>Name of Defendant</u>	<u>Name of Witness</u>	<u>Decision</u>
Wilhelm Mann and Fritz Ter Meer	Dr. Hellmuth Vits	Denied

Kenneth G. Glavin
Presiding Judge

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, MUNNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 20 MAY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering prosecution motion of 18 May 1948 to

- 1) assign Prosecution Exhibit No. 2267 to Doc. No. NI-15244
- 2) assign Prosecution Exhibit No. 2268 (for identification only) to Doc. No. NI-15128
- 3) assign Prosecution Exhibit No. 2352 to Doc. No. NI-15290
- 4) assign Prosecution Exhibit No. 2269 to Doc. No. NI-8500 (excepting paragraph 2, which is not to be considered in evidence),

IT IS ORDERED that said motion be granted.


Presiding Judge

Dated this 20th day of May 1948.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
21 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The motions of Dr. Karl Bornemann, dated 11 May 1948; Dr. Otto Welte, dated 10 May 1948; and Dr. Hans Friebilla, dated 18 May 1948, to strike Prosecution Exhibit 2260 from the evidence, which said exhibit is erroneously indicated as Prosecution Document NI-8924, instead of Document NI-9824, as not constituting proper rebuttal, is overruled by the Tribunal.

Quinn E. Sharck
Presiding Judge

James M. ...
Judge

Paul ...
Judge

Clayton ...
Alternate Judge

Dated this 21st day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
21 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Tribunal finds that the motion to dismiss the cause filed on 3 May 1948 by Dr. Edward Wahl and Dr. Rudolf Dix, on behalf of all the defendants, raises questions of law concerning the legality and jurisdiction of the Tribunal.

IT IS ORDERED, therefore, that the consideration of the petition be postponed until the final determination of the cause, after the Tribunal has had the benefit of the arguments and briefs of counsel.

Ernest S. Glavin
Presiding Judge

James M. Hays
Judge

James M. Hays
Judge

Charles J. Hays
Alternate Judge

Dated this 21st day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
21 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The motion of Dr. Werner Schubert, counsel for the Defendant BUERGIN, dated 3 May 1948, and filed 4 May 1948, to strike from the evidence the Prosecution's Exhibits 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1970 and 1971, as not being proper rebuttal, is overruled by the Tribunal.

Ernest B. Shalt
Presiding Judge

James M. ...
Judge

James M. Schubert
Judge

Charles F. ...
Alternate Judge

Dated this 21st day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
21 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The motion of Dr. Alfred Seidl, counsel for the Defendant Duerrfeld, dated 12 May 1948, and filed 13 May 1948, to strike the Prosecution's Exhibit 2262 from the evidence as not constituting proper rebuttal is overruled by the Tribunal.

Ernest P. Flade
Presiding Judge

James M. Morris
Judge

Paul M. Street
Judge

Charles F. Merrill
Alternate Judge

Dated this 21st day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
21 MAY 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 8

ORDER

The joint motion filed by Defense Counsel Dr. Hellmuth Dix, Dr. Hans Flaeschner, Dr. Walter Sieners, Dr. Erich Berndt, Dr. Karl Bornemann and Dr. Seidl, on 11 May 1948, to strike from the evidence all Prosecution affidavits obtained during trips abroad by members of the Prosecution Staff is overruled by the Tribunal.

Charles D. Chase
Presiding Judge

James M. Hays
Judge

James M. Hays
Judge

Charles D. Chase
Alternate Judge

Dated this 21st day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
24 MAY 1948

THE UNITED STATES OF AMERICA :
: - vs. - :
CARL KRAUCH, et al., : Case No. 6
: Defendants. :

ORDER

On 12 May 1948, Dr. Rudolf Dix, on behalf of the Defendant Hermann Schmitz, filed a motion to strike from the Prosecution's Exhibit 334 (an affidavit of the Defendant Ter Meer) the affidavit of the said Schmitz contained therein. A brief review of the pertinent parts of the record is necessary.

On 5 May 1948, Dr. Rudolf Dix, counsel for the Defendant Schmitz, filed a motion in which it was stated that in May, 1948, Major Tilley, acting for the United States Government, conducted an interrogation of said Schmitz during the course of which he "called the defendant's attention to the fact that he would incur twenty years imprisonment if he should not say the truth, or not testify at all." (Our emphasis).

Said motion further recited that on 11 September 1945, one Lawrence Linville conducted a further interrogation of the Defendant Schmitz in the course of which the following occurred:

"Q: I call your attention to Ordinance No. 1, Article No. 2, Section No. 33, as issued by the Military Government. (Handing a copy of the Ordinance to the witness, who reads the indicated section).

"A: Yes. I have read it."

On 16 May 1948, the Prosecution stipulated on the record (transcript page 14053) as follows:

"For the purpose of this proceeding, we will stipulate on the basis of Dr. Dix's statement, that such an interrogation did take place as indicated in his motion."



- 2 -

The following also appears on page 14054 of the transcript:

"The President: Do we understand, Mr. Prosecutor, that you are willing to stipulate for the purposes of the matter under controversy that the interrogation, the questions and answers that were contained in the showing made by Dr. Dix, are correctly reported to the court in Dr. Dix' statement?

"Mr. Sprecher: That is correct, Mr. President."

Military Government Ordinance No. 1, referred to above, was promulgated 16 August 1945, and provided as follows:

"The following offenses are punishable by such penalty other than death as a Military Government Court may impose:

* * * * *

33.) Knowingly making any false statement, orally or in writing, to any member of, or person acting under the authority of, the Allied Forces in a matter of official concern, or in any manner defrauding, or refusing to give information required by, Military Government." (Our emphasis).

At the time the above described incidents occurred the Defendant Schmitz was under detention by the American Military authorities, having been arrested on 7 April 1945.

The question to be decided is, therefore, whether the purported statement of the Defendant Schmitz contained in the Prosecution's Exhibit 334 can be regarded as his voluntary statement against interest.

The ruling announced for the Tribunal by Judge Morris on 11 May 1945 (transcript pages 14249 and 14250) had reference to the admissibility of affidavits made by defendants who did not take the witness stand, generally, and was not directed to the subject of any alleged duress or coercion under which such affidavits were obtained.

There is no more fundamental concept of enlightened jurisprudence than that one charged with crime may not be compelled by force, fear, threats or intimidations to give evidence against himself. Indeed, most modern judicial systems recognize that a defendant in a criminal case may refuse to testify in his own behalf without the risk creating any inference or presumption of his guilt. This Tribunal is not disposed to ignore these basic human rights.

It would be difficult, if not impossible, to conceive of a more effective means of coercing one into giving evidence against himself than to advise him that he would be subject to life imprisonment for failure to do so, especially when the implied threat is accompanied by the showing of an official directive providing for such liability.



- 3 -

We conclude, therefore, that the statement of the Defendant Schmitz, bearing date of 17 September 1945, appearing in the affidavit of the Defendant Ter Meer, Prosecution's Exhibit 334, is inadmissible as the voluntary statement of the Defendant Schmitz. The said statement of the Defendant Schmitz will not be considered as evidence of the facts purported to be set forth therein and remains in the record only insofar as it may be necessary for a proper understanding of the statements of the Defendant Ter Meer as set forth in his affidavit, Prosecution's Exhibit 334.

Wesley B. Thorne
Presiding Judge

James M. Mone
Judge

Judge

Dated this 24th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
24 MAY 1948

THE UNITED STATES OF AMERICA :
- vs - :
CARL KRAUCH, et al., : Case No. 6
Defendants : :

DISSENT

The undersigned, Paul M. Hebert, Judge of Tribunal VI, and Clarence F. Merrell, Alternate Judge of Tribunal VI, cannot agree with the finding of the Tribunal by a majority of its members that the statement of Defendant Schmitz, dated 17 September 1945, made a part of the affidavit of Defendant ter Meer being Prosecution Exhibit No. 334, was obtained under duress, and we therefore disagree with the order striking from the exhibit such statement.

On 22 May 1948, there was filed by R. Dix, Counsel for Defendant Schmitz, a motion to strike the Schmitz statement from the ter Meer affidavit, and on 4 May 1948, after giving the matter careful consideration, the Tribunal overruled said motion. At that time Judge Morris, during a statement made on the record on behalf of the Tribunal, said,

"He" (referring to Defendant Schmitz) "does not contend in his showing, in support of the motion, that he knew of the order or that it influenced him in making the statement. In fact, the circumstances disclosed by the record point to the contrary and it appears that the statement was made on the part of the Defendant Schmitz of his own volition and without duress."

On 7 May 1948, a motion was filed on behalf of Defendant Schmitz in which the following was set out:

"Corrected and Supplemented Record of the Interrogation of Hermann Schmitz	Frankfurt 2:30 to 3:30 PM 11 September 1945 Tuesday
--	---

Q. I call your attention to Ordinance No. 1, Article No. 2, Section No. 33, as issued by the Military Government. (Handing a copy of the Ordinance to the witness, who reads the indicated section.)

A. Yes. I have read it."

The record of the proceedings on 10 May 1948 in open court shows that the following occurred:

"DR. DIX: * * * the Tribunal will remember my application for my client in reference to Ordinance No. 1 of the American Military Government, which was brought up during his interrogation. In my last application I included the copy of a record of interrogation of Schmitz at which, according to the text of this copy, his attention was called to this ordinance and he was asked whether he read it. He

said 'yes.' I asked the prosecution for the purpose of a stipulation to check whether this copy of mine agreed with the original. * * *

"I would be grateful to Mr. Sprecher if, before the end of the proceedings, he could make a statement as to whether he can check this text of this record and stipulate with me.

"MR. SPRECHER: * * * We have been unable in this short period of time to check this interrogation of which Dr. Dix says he has a copy. For the purposes of this proceeding we will stipulate on the basis of Dr. Dix's statement, that such an interrogation did take place as indicated in his motion.

"THE PRESIDENT: I believe, Dr. Dix, that you said to the Tribunal that if the prosecution would accept your statement as having been made that that would obviate the calling of witnesses on your part to substantiate your facts. Is that true? In other words, it will now raise a question of law for the Tribunal to pass upon rather than one of fact to be first determined.

"DR. DIX: That is my opinion, Mr. President. I don't want to be misunderstood. It is my opinion that if the quoted text of this record is stipulated it will not be necessary to call witnesses. I am not sure that I think a legal question will remain to be decided by the Tribunal.

"THE PRESIDENT: You are correct in that regard.

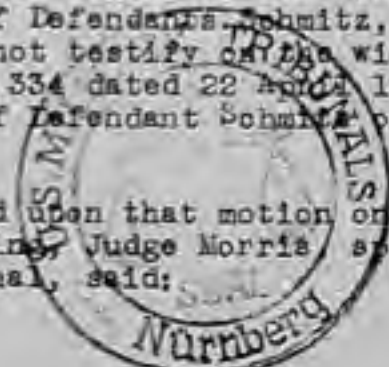
"Now, counsel--and I am addressing this inquiry primarily to counsel for the prosecution--in other words, do we understand, Mr. Prosecutor, that you are willing to stipulate for the purposes of the matter under controversy that the interrogation, the questions and answers that were contained in the showing made by Dr. Dix are correctly reported to the court in Dr. Dix's statement?

"MR. SPRECHER: That is correct, Mr. President.

"THE PRESIDENT: Very well, That puts that matter at rest for the time being. By that I mean to say that, in view of the prosecution's stipulation which the Tribunal now accepts and the position stated by Dr. Dix, the Tribunal sees no necessity of hearing any further evidence on that issue."

On 5 May 1948, there was filed on behalf of all defendants a motion to strike all affidavits of Defendants Schmitz, von Schnitzler and Lautenschlaeger, who did not testify on the witness stand, including Prosecution Exhibit No. 334 dated 22 April 1947 insofar as it reproduces the statement of Defendant Schmitz of 17 September 1945.

The court, by a majority, ruled upon that motion on 11 May 1948. During the course of that ruling, Judge Morris speaking on behalf of a majority of the Tribunal, said:



"The motion also includes an affidavit of Dr. ter Meer, Document NI 5187, being Prosecution's Exhibit 334, dated 22 April 1947, in which Dr. ter Meer sets forth a quotation from a statement given to him by Dr. Schmitz, which the affiant ter Meer discusses at considerable length in his affidavit.

"It is the opinion of the Tribunal, and it therefore rules, that the entire affidavit of Dr. ter Meer, who did go on the witness stand, is admissible in evidence and will be considered with respect to all defendants, and that the statement of Dr. Schmitz will not be stricken therefrom as requested by the motion."

Thereafter, to wit, 12 May 1948, there was filed by R. Dix, Counsel for Defendant Schmitz, a renewal of his request to strike the Schmitz statement from Prosecution Exhibit No. 334, being the ter Meer affidavit. It is that request that the Tribunal, by majority, has granted and with which the undersigned for the record express their disagreement.

The only change in the record since the Tribunal's prior ruling on a similar request is the fact stipulated on the record on 7 May 1948 that the attention of Schmitz was called to Ordinance No. 1 of the Military Government at the outset of his interrogation on 11 September 1945, and asked whether he had read it and Schmitz said, "Yes. I have read it."

Asking him whether he had read the Ordinance does not necessarily constitute duress as the phraseology of the Ordinance also includes the obligation to speak the truth where the statement is voluntarily made. For there to be duress, some showing of a connection between a threat and a statement must be made and it must appear that the statement was the result of compulsion. As a leading American authority states:

"Confessions obtained by threats are, generally speaking, inadmissible in evidence as being involuntary. But it is not every threat that will render a confession made subsequently thereto involuntary. There must be some connection between the threat and the confession, showing that the mind of the accused was overcome by the threat, and the confession was a product of such compulsion and intimidation. It is not sufficient, either, to say that if the confessor makes his confession because of fear, it is inadmissible, for a secret fear existing in the mind of the confessor not directly induced by the persons to whom the confession is made will not affect the voluntary nature of the statement. In other words, a confession should not be rejected merely because it was made under great excitement or mental distress, or fear, where such state of mind was not produced by extraneous pressure exerted for the purpose of forcing a confession, but springs from apprehension due to the situation in which the accused finds himself. And when the confession is made at some interval after certain threats have been made, the influence that the threats have upon the confession must be observed and inquired into as bearing upon the voluntary nature of the confession at the time it is made. The reason generally given for the exclusion of confessions induced by

threats and menaces is not that there has been an illegal extortion of the statement, but rather because the party making the statement is deemed to have been thus influenced to make an untrue confession. But what threats or acts will induce the fear that will vitiate and render involuntary the confession depends upon the circumstances of the concrete case before the court." (Wharton's Criminal Evidence, Vol. II, Sec. 613)

The statement attributed to Major Tilley is not established by any evidence in the record and, even if established, is too remote in point of time to have influenced the statements made by Schmitz four months later in September of 1945. Therefore, the only additional element here present and not specifically covered by the ruling of the Tribunal of 4 May 1948 is knowledge of the Defendant Schmitz of the Ordinance. There is no showing whatsoever that this knowledge influenced him in making the statement. The record as to the circumstances surrounding the giving of the statement otherwise remains exactly the same. We submit that the ruling of the Tribunal of 4 May 1948 was correct, and that now as then, the circumstances disclosed by the record point to the contrary to the contention advanced by and on behalf of Defendant Schmitz that his statement was made under duress. It clearly appears from all the circumstances that the statement was made on the part of the Defendant Schmitz without duress.

The circumstances referred to are set out fully in ter Meer's affidavit (Prosecution Exhibit No. 334). Those circumstances include the following:

1. Schmitz submitted a written statement, dated 26 August 1946, which is embodied in the ter Meer affidavit, undertaking formally to withdraw his first statement--not because of duress or undue influence, but because of some inaccuracies in the first statement. This circumstance has particular significance inasmuch as it appears from the ter Meer affidavit that Schmitz "cooperated with Dr. Gierlichs" (assistant counsel for Defendant Schmitz in this case) "when working out his statement of 26 August 1946." The record clearly shows that the concern of Defendant Schmitz and his counsel Gierlichs was correcting what they regarded as errors in the first statement rather than effect of any duress or undue influence with respect to the giving of the first statement.

2. It further appears from the Schmitz statement of 26 August 1946, prepared with the assistance of his lawyer Gierlichs, that the Schmitz statement of 17 September 1945 was based on several interrogatories of Schmitz over a period of several days, and that it was signed only after making corrections; that the errors not corrected were discovered only after conferences with several of the other officials of Farben at Gransberg in 1946; that the errors were due to "absence of files" and "incorrect impressions which had been communicated to me" (Schmitz) "by von Schnitzler"; that the "unclear parts of the statement" (of 17 September 1945) "were also caused partly, as comparison with the original dictation of Weissbrodt shows, by the crossing out of sentences and parts of sentences which I" (Schmitz) "could not accept or by alterations through which the original sense was disjoined or became a source of misunderstanding." Furthermore, it affirmatively appears by Schmitz's own statement incorporated in the subsequent statement of 26 August 1946 that he signed the statement of 17 September 1945 "in order to avoid the impression that I (Schmitz) might not be willing to cooperate in the clarification of the business of I. G. Farben." This clearly indicates that his purpose in giving the

statement was to create the impression that he was willing to cooperate with the Military authorities who were investigating Farben's affairs and all of the above circumstances show that no element of compulsion or duress was present.

3. It appears from the ter Meer affidavit (Prosecution Exhibit 334) that for a long period of time at Gransberg in 1946, many officials of Farben, including Schmitz, von Schnitzler, Gajewski, Buefisch, Hoerlein, ter Meer, Ilgner and von Knieriem, had prolonged conferences as a result of which a full detailed comprehensive statement was prepared concerning Farben activities and affairs, which statement is embodied in the ter Meer affidavit; that Defendant Schmitz was "not willing to agree to it because, not being a technical expert, he was uncertain whether my" (ter Meer) "statement was a complete and true explanation of the facts involved"; that later Defendant Schmitz, after reviewing some minutes of the proceedings of the Vorstand and further conferences with his associate officials of Farben, became convinced that there were other mistakes in his statement of 17 September 1945 and thereupon prepared his subsequent statement of 26 August 1946 which also is embodied in full in the ter Meer affidavit.

4. Even after all these conferences and circumstances, including the help of his lawyer, at no place in the subsequent statement is there any mention of any compulsion or duress made by Schmitz.

All those circumstances emphatically negative any inference of duress or compulsion felt by Defendant Schmitz when he gave his statement of 17 September 1945. We submit that the ruling and finding of the Tribunal made 4 May 1948 is the correct statement of the effect of the record as it now stands in that, instead of showing that Schmitz was influenced by duress, that the contrary appears and that such statement was made without duress.

In what has heretofore been said, we recognize and affirm the fundamental rights of defendants as referred to by the majority of the Tribunal in the order striking out the Schmitz statement. However, it is our opinion that there is no basis in the record for the finding that Schmitz was influenced by any element of duress in the giving of the statement of 17 September 1945.

The ruling of the Tribunal obviously is based upon the existence of Military Ordinance No. 1 to which Schmitz's attention was called. An examination of the record of that Ordinance, of which this Tribunal, of course, can and should take judicial notice, discloses that it is a military ordinance enacted by the Military Government of United Nations occupying all of Germany and not merely of American Military Government. Military Ordinance No. 1 is a comprehensive law concerning "Crimes and Offenses," enacted "in order to provide for the security of the Allied Forces and to establish public order throughout the territory occupied by them." Under conditions existing in Germany following its invasion and occupation by the Allied Forces of the United Nations, of which this Tribunal takes judicial notice, such a law was necessary and imperative.

Following the invasion, the Allied Forces were charged with a multitude of duties requiring extensive investigation of German industries with reference to their war potential and having a bearing on reparations. Those investigations included the investigation of I. G. Farbenindustrie Aktiengesellschaft. The report of December 1945 of the Hearings before a Subcommittee of the Committee on Military Affairs of the United States Senate, pursuant to Senate Resolution 107 (78th Congress) and Senate Resolution 146 (79th Congress) authorizing a study of war mobilization problems, explains in a brief manner the purpose and importance of that investigation. It says:

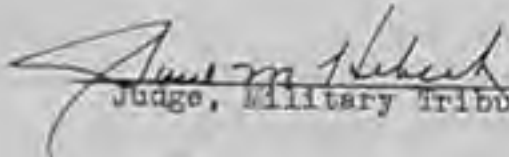
"A basic purpose of this investigation was to uncover as much information as possible concerning the nature and location of the far-flung and carefully concealed external assets of I. G. Farben. The investigation was, therefore, an important phase of the program adopted by the Allied Powers at Potsdam to strip Germany of all of her external assets in the interest of future world security and to use such assets for the relief and rehabilitation of countries devastated by Germany in her attempt at world conquest."


The report shows that among others who were engaged in that investigation were Abe Weissbrodt and Lawrence Linville, who conducted the interrogations of Defendant Schmitz.

There is no showing that the interrogation of Schmitz was for the purpose of instituting criminal proceedings against him or that those engaged in such interrogations have had anything to do with the preparation or prosecution of this case against the officials of I. G. Farben. Indeed, the contrary appears. The investigation, of which the interrogation of Schmitz in 1945 was a part, was conducted under the direction of Colonel B. Bernstein, Director, Division of Investigation of Cartels and External Assets, Office of Military Government, for the purposes explained above.

The ruling of a majority of this Tribunal is an unwarranted reflection upon the manner which this investigation was conducted insofar as the interrogation of Defendant Schmitz was concerned, and it is not, in our opinion, justified by the record.

It is the opinion of the undersigned that the ruling and order striking out the statement referred to is improper both under the law applicable to this case and the facts disclosed by the record, and that the Schmitz statement of 17 September 1945 should be left in the evidence along with the subsequent statement of 26 August 1946, all as a part of the ter Meer affidavit (Prosecution Exhibit #334).


Judge, Military Tribunal VI


Alternate Judge
Military Tribunal VI

Dated this 24th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
25 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

In accordance with discussions with representatives of both Prosecution and Defense held in chambers on 24 May 1948, the following decisions by the Tribunal are announced and made a matter of record for guidance of counsel:

1. Counsel for the Defense shall proceed first with the delivery of their closing arguments on the date of 2 June 1948, and will proceed in accordance with the division of time agreed upon by counsel for Defense among themselves; counsel for the Prosecution will follow and complete the Prosecution's argument in its entirety.
2. Neither the Prosecution nor the Defense shall have access to the written arguments of the other side prior to the beginning of presentation of each closing argument in open court; all agencies concerned with the translation and processing of these arguments are instructed that the material is confidential and is not under any circumstances to be divulged.
3. Each counsel for the Defense and the Prosecution shall furnish counsel for the opposite side with the written text of each closing statement at the time of the beginning of delivery thereof in open court.
4. Additional time of three (3) hours is hereby allotted to the Defense following the conclusion of the Prosecution's arguments, to permit the Defense to answer or rebut arguments advanced by the Prosecution in its closing statements. Defense counsel may agree among themselves concerning the manner in which this additional time for rebuttal argument is to be utilized by them. Such argument may be either extemporaneous or based upon previously prepared manuscripts.



- 2 -

5. The individual pleas of each defendant (10 minutes each) will follow immediately after the conclusion of all of the arguments.

Quentin Drake
Presiding Judge

Saul M. Siegel
Judge

James Morris
Judge

Dated this 25th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
26 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On petition of the Prosecution, dated 21 May 1948, it is made to appear that through error occurring on 10 May 1948, the Prosecution Document NI-15292 was assigned Prosecution's Exhibit Number 2350 for identification.

To correct said error the Prosecution Document No. NI 15292 is now assigned Prosecution's Exhibit No. 2270 for identification only.

Curtis G. Shaker
CURTIS G. SHAKER
Presiding

Dated this 26th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
26 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On petition of Dr. Karl Hoffmann, attorney for the Defendant OTTO AMEROS, dated 21 May 1948, it is made to appear that the first document in said defendant's Document Book 4B was given Document No. 425.

IT IS NOW ORDERED that the first document in said defendant's Document Book 4B, is now assigned said defendant's Document No. CA 425a.

Curtis G. Sharr
CURTIS G. SHARR
Presiding

Dated this 26th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
26 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Motion of Dr. Otto Nelte, counsel for the Defendant Heinrich Hoerlein, dated 10 May 1948, to strike from the evidence the Prosecution's Exhibit 2258, as not being proper rebuttal, is overruled by the Tribunal.

Guinn S. Harbo
Presiding Judge

James F. Moore
Judge

Paul M. Hunt
Judge

Dated this 28th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, EURNBERG, GERMANY
28 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARD KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Upon consideration of the Motion of Dr. Hans Fribilla, counsel for the Defendant Carl Lautenschlager, dated 24 May 1948, entitled: "Objection against Exhibit 2258-2260" but which said Motion involves only Prosecution's Exhibit 2260, the Tribunal finds that the relief sought in said Motion was heretofore denied by the Tribunal by its Order dated 21 May 1948.

The said Motion of 24 May 1948 is therefore dismissed.

Curtis G. Shaker

CURTIS G. SHAKER
Providing

Dated this 28th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURENBERG, GERMANY
28 MAY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUSE, et al., :

Defendants. :

Case No. 6

ORDER

The Prosecution and Dr. Otto Helte, as counsel for the Defendant Hoerlein, having entered into a written stipulation with respect to Hoerlein Document No. 215, Hoerlein Exhibit No. 143,

IT IS ORDERED by the Tribunal that said stipulation is made a part thereof in the files of the Secretary General of the Tribunal and that the original of said document and exhibit shall likewise be preserved in the files of said Secretary General but need not be translated, mimeographed or distributed as an exhibit in this cause. The Tribunal will accept said stipulation in lieu of the original exhibit for the purposes of the contents of said original exhibit.

IT IS FURTHER ORDERED that said stipulation shall be processed and distributed to the members of the Tribunal and to counsel and designated as the substitute for Hoerlein Document No. 215, Hoerlein Exhibit No. 143.

Curtis G. Sharr

CURTIS G. SHARR
Presiding

Dated this 28th day of May 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
1 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Motion of the Prosecution entitled:
"Motion Concerning Certain Outstanding Matters and Answer
to Three Motions on behalf of the Defendant von Schnitzler",
presented to the Tribunal on 1 June 1948, so far as said
Motion asks for affirmative relief, is overruled by the
Tribunal.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 1st day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
1 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Motion of Dr. Walter Siemers, counsel for the Defendant Georg von Schnitzler, filed with the Tribunal on 29 May 1948, offering von Schnitzler document No. 228, von Schnitzler Document No. 229, and von Schnitzler Document No. 230, as von Schnitzler Exhibits 225, 227 and 228, respectively, is overruled by the Tribunal and said documents are rejected as evidence in this cause.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 1st day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
1 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Motion of Dr. Pribilla, counsel for the Defendant Lautenschlaeger, dated 18 May 1948, Lautenschlaeger Document No. 72 is admitted in evidence as Lautenschlaeger Exhibit No. 70.

Curtis G. Shaker
CURTIS G. SHAKER
Presiding

Dated this 1st day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
1 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARD KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Motion of Dr. Walter Siemers, counsel for the Defendant Georg von Schnitzler, dated 28 May 1948, is sustained in part and overruled in part as follows, to wit:

The affidavit of Dr. Max Ilgner marked von Schnitzler Document No. 226 and admitted in evidence as von Schnitzler Exhibit No. 224 -- that part of the Motion asking the Tribunal to reconsider its ruling based upon the oral Motion of 26 August 1947 (English transcript page 225, German 233) and the Motion of 30 August 1947 (English transcript page 281, German 296) which ruling was announced by the Tribunal on 2 September 1947 (English transcript page 218, German 297) is now overruled by the Tribunal. The Tribunal sees no reason for reversing its said ruling on 2 September 1947.

That part of the Motion asking that the Tribunal strike Prosecution's Exhibits 1324, 39, 1259, 1065, 1356, 40, 16, 251, 319, 36, 580, 1208, 1812 and 1813, is now overruled by the Tribunal.

Curtis G. Shanks
CURTIS G. SHANKS
Presiding

Dated this 1st day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
1 JUNE 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 6

ORDER

The Motion of Dr. Guenther Lummert, counsel for the Defendant Hans Kuehne, dated 11 December 1947, and the supplemental Motion filed by said counsel for said defendant on 8 January 1948, will not be passed upon by the Tribunal prior to the rendition of the judgment but will be considered in connection therewith after the Tribunal has had the benefit of the arguments of counsel and their briefs.

Curtis G. Spake
CURTIS G. SPAKE
Presiding

Dated this 1st day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
1 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 8

ORDER

The motion of Dr. Helmuth Dix, counsel for the Defendant Schneider, to strike from the evidence Prosecution's Exhibits 917, 1328, 1329, 1333 and 1418, filed on 31 May 1948, is now overruled by the Tribunal.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 1st day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
1 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Motion of Dr. Walter Siemers, counsel for the Defendant Georg von Schnitzler, on 28 May 1948, is overruled in part and sustained in part as follows to wit:

The affidavit of Lilly von Schnitzler, marked von Schnitzler Document No. 27, and offered for identification as von Schnitzler Exhibit No. 30, is now admitted in evidence as von Schnitzler Exhibit No. 30. The affidavit of Lilly von Schnitzler, dated 26 May 1948, marked von Schnitzler Document No. 227, and offered as von Schnitzler Exhibit No. 225, is rejected and the same is not admitted in evidence.

Curtis G. Shaze
CURTIS G. SHAZE
Presiding

Dated this 1st day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 1 JUNE 1948

THE UNITED STATES OF AMERICA	:	
	:	
- vs. -	:	
	:	Case No. 6
CARL KRAUCH, et al.,	:	
	:	
Defendants.	:	

ORDER

The Motions presented by Dr. R. W. Mueller, Administrative Assistant for Defense Counsel, on 7 May 1948, to dismiss this cause for lack of jurisdiction; to dismiss for failure to properly prepare, refer or investigate the charges; to dismiss for defects appearing on the face of the Indictment; to dismiss for misjoinder and other defects appearing on the face of the Indictment; to dismiss the Indictment for failure to allege an offense cognizable by this Tribunal; to dismiss for lack of jurisdiction over the persons of the defendants; for a mistrial and to dismiss the charges; and to strike certain allegations of the Indictment, has been considered by the Tribunal and the Tribunal now determines that it will not pass upon said Motions before the rendition of the final judgment. Said motions involve a consideration of the evidence and a determination of questions of law which the Tribunal can better determine after it has heard the arguments of counsel.

Curtis C. Shaker
 CURTIS C. SHAKER
 Presiding

Dated this 1st day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
1 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Motion of Defense Counsel for a finding of Not Guilty filed on the 17th of December 1947, will not be ruled upon by the Tribunal prior to the rendition of the final judgment herein, but the matters set forth therein will be considered by the Tribunal after it has had the benefit of the arguments of counsel and the briefs submitted at the conclusion of the case.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 1st day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
4 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

It appearing to the Tribunal that Dr. Pribilla, counsel for the Defendants Lautenschlaeger and Jaehne is confined to the German Hospital at Furth on account of illness and that said counsel desires to have a conference with his said clients concerning important matters connected with the conclusion of the trial of this cause,

IT IS ORDERED that the Director of the Prison is directed to take the defendants Lautenschlaeger and Jaehne to the German Hospital at Furth on Saturday morning, 5 June 1948, for the purposes of said conference, under such security measures as such Director shall deem proper.

Curtis G. Shake
CURTIS G. SHAKE
Presiding

Dated this 4th day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
8 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Motion of Dr. Otto Nelte, counsel for the Defendant Heinrich Hoerlein, filed on 1 June 1948, pertaining to Prosecution Document NI-15299, Prosecution Exhibit 2262, is dismissed by the Tribunal for the reason that the same was not submitted until after the evidence in this cause had been closed. The Motion involves the matter of the proper translation of said exhibit and the documents upon which it is predicated. Since the nature of the controversy is apparent on the face of the record, the Tribunal will take said matter of translation into consideration in determining the weight and probative value of said exhibit 2262.

Ernest B. Chase
Presiding Judge

James M. Wynn
Judge

Lawrence M. White
Judge

Dated this 8th day of June 1948

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 11 JUNE 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the application of the defendant Hans Kuehne to be transferred to the Nurnberg Municipal Hospital to undergo treatment there by the Medical Director, Dr. Steichele, on Monday the 14th of June, 1948.

IT IS ORDERED that said application be granted.

Ernest B. Hader
Presiding Judge

UNITED STATES MILITARY TRIBUNAL VI
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 12 JUNE 1948

THE UNITED STATES OF AMERICA

vs

CARL KRAUCH, et al.,
 Defendants

CASE NO. 6

ORDER

IT IS ORDERED BY THE TRIBUNAL that the defendant Fritz Gajewski is hereby ordered to be released from the prison to attend the funeral of his deceased brother at Homburg in the British Zone without guard and upon his own honor to return to the prison on or before Wednesday 16 June, 1948.

Wesley E. Shaker
 Presiding Judge

Dated this 12th day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
17 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUSE, et al., :

Defendants. :

Case No. 6

ORDER

Upon a showing which the Tribunal deems proper and sufficient to the effect that the father-in-law of the Defendant Heinrich Gattineau is seriously ill at his home in Wuppertal, Elberfeld, in the British Zone, and that it is necessary for said defendant to see his father-in-law concerning important business matters,

IT IS ACCORDINGLY ORDERED that said Defendant Heinrich Gattineau is hereby granted leave to visit his said father-in-law at the above place without a guard upon his pledge of honor to return to the prison at Nurnberg on or before Friday, 25 June 1948.

The Director of the prison is hereby authorized and directed to release the defendant from custody for the above period of time and upon the above conditions.

Curtis G. Shake

CURTIS G. SHAKE,
Presiding.

Dated this 17th day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
22 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUSE, et al., :


Defendants. :

Case No. 6

ORDER

The Tribunal grants the petition of the defendant Paul Heefliger to be released from prison on his honor and without a guard for the period of four days at such time as he may elect for the purpose of attending to such personal matters as are set forth in his petition.

IT IS FURTHER ORDERED that said defendant may, during his said leave, travel to and from Frankfurt and be accompanied by his secretary, Alice Lubach. The proper administrative agencies are further directed to provide the said defendant and the said Alice Lubach with the necessary and proper travel orders for the purpose of said trip.



CURTIS G. SHAKER
Presiding

Dated this 22nd day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
22 JUNE 1946

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUPE, et al., :

Defendants. :

Case No. 6

ORDER

IT IS ORDERED by the Tribunal that the defendant Hans Kugler shall be released from prison on his honor and without a guard for the period of eight days to begin at such time as he may elect for the purpose of going to Frankfurt to attend to his family obligations and business affairs.

The proper administrative agencies are directed to provide said defendant with the necessary travel orders for making said trip to Frankfurt and return.

Curtis G. Shaker

CURTIS G. SHAKER
Presiding

Dated this 22nd day of June 1946

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
25 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCK, et al., :

Defendants. :

Case No. 6

ORDER

The Order heretofore issued on 22 June 1948 granting leave to the Defendant Paul Haefliger to be released from prison on his honor and without a guard for four days, and the Order issued same date, granting leave to the Defendant Hans Kugler to be likewise released from prison on his honor and without a guard for a period of eight days, and directing the proper administrative agencies to provide said defendants with travel orders are now modified as follows, to-wit:

Each of the defendants, Paul Haefliger and Hans Kugler, are granted leave to be released from prison on their honor and without a guard for a period of eight days to begin at such time as they may elect.

It having been made to appear to the Tribunal that transportation facilities are available for said defendants, the administrative agencies are relieved from the duty of providing said defendants with travel orders.

Said defendants during said period of leave are committed to the custody of Dr. Rupprecht Storkebaum who has represented to the Tribunal that he will be personally responsible for the return of said defendants and that he will see that they are provided with transportation facilities during the period of their said leave.

This Order supplants said Orders of 22 June 1948.

Curtis G. Shake

CURTIS G. SHAKE
Presiding

Dated this 25th day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
 SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
 26 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUSE, et al., :

Defendants. :

FILED 28 June 1948 with
 Secretary General
 Case No. 56 Tribunal
 Defense Center

ORDER

The Defendant GEORG VON SCHNITZER has filed a petition with the Tribunal asking for temporary leave from prison to go to Frankfurt/Main to attend to important business matters and to visit his daughter who is temporarily in Frankfurt but who is domiciled in Madrid, Spain, and who the defendant has not seen for six years.

Under the circumstances, the Tribunal hereby grants the said defendant leave to go to Frankfurt without a guard and on his pledge of honor to return to the prison on or before Thursday, 1 July 1948.

The prison authorities are relieved from any responsibility with respect to said defendant during the period that he is absent from prison on said leave.

Curtis G. Shale
 CURTIS G. SHALE
 Presiding

Dated this 26th day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
28 JUNE 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Counsel for the Prosecution and for the Defendants having joined in three joint motions in the nature of stipulations for the correction of the transcript in this cause as follows, to-wit:

Fourth Joint Motion dated 5 June 1948,
Fifth Joint Motion dated 12 June 1948, and
Sixth Joint Motion dated 26 June 1948,

IT IS THEREFORE ORDERED by the Tribunal that each and all of said joint motions are sustained by the Tribunal and that the transcript of the proceedings in this cause be and it is hereby ordered corrected in accordance with said described joint motions.

Quinn J. Gahan
Presiding Judge

John W. Wynn
Judge

Paul M. Hebert
Judge

Dated this 28th day of June 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
1 JULY 1948

THE UNITED STATES OF AMERICA :
:
- vs. - :
:
CARL KRAUCH, et al., :
:
Defendants. :

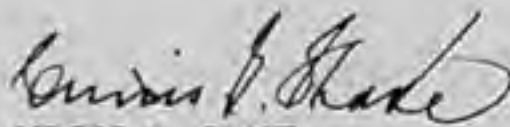
Case No. 6

ORDER

On 26 June 1948, the Tribunal entered an Order granting the Defendant GEORG VON SCHNITZLER temporary leave to go to Frankfurt/Main on his promise to return to the prison on or before Thursday, 1 July 1948. Said Order was filed in the Office of the Secretary General on 28 June 1948.

It now appears to the Tribunal that the leave granted to said Defendant has been cut short by reason of delay in releasing him from the prison, for which he is not responsible.

It is therefore ordered that the aforesaid Order of 26 June 1948 is hereby amended so as to grant said Defendant leave on condition that he return to the prison on or before Sunday, 4 July 1948; otherwise the Order of 26 June 1948 remains in full force and effect.


CURTIS G. SHAKE
Presiding

Dated this 1st day of July 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
3 JULY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUSE, et al., :

Defendants. :

Case No. 6

ORDER

IT IS ORDERED by the Tribunal that the Defendant DR. CARL KRAUSE, be released from prison for the purpose of visiting and looking after his family and business matters at Heidelberg, beginning Tuesday, 6 July 1948, and ending 13 July 1948.

During the period of his release the said defendant is committed to the custody of his counsel, Dr. Conrad Boettcher, and the Military Authorities are relieved of responsibility of providing a guard for the said defendant.

Curtis G. Shance

CURTIS G. SHANCE
Presiding

Dated this 3rd day of July 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
7 JULY 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUTH, et al.,

Defendants.

Case No. 8

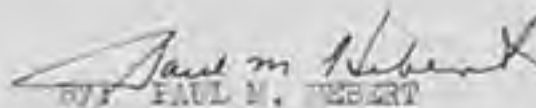
ORDER

The Defendant FRIEDRICH JAKEME filed a petition with the Tribunal on 5 July 1948, asking for temporary leave from prison to go to Gravenbroich, near Cologne, to attend to important business and family matters.

Under the circumstances, the Tribunal hereby grants the said defendant leave to go to Gravenbroich, without a guard and on his pledge of honor, to return to the prison on or before 15 July 1948.

The prison authorities are relieved from any responsibility with respect to said defendant during the period that he is absent from prison on said leave.

CURTIS C. SHANK
Presiding


BY PAUL M. HEBERT
Judge

Dated this 7th day of July 1948

UNITED STATES MILITARY TRIBUNALS
 SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
 AT A SESSION OF MILITARY TRIBUNAL VI
 HELD 16 JULY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs -

CARL KRAUCH, et al.,

Defendants.

ORDER

Case No. 6

On considering the requests of the several defendants below set forth for the granting of leave on parole for the reasons as stated by their respective defense counsel,

Heinrich Buetefisch
 Walter Duerrfeld
 Wilhelm Mann
 Christian Schneider,

IT IS ORDERED that said requests be denied.

Curtis G. Shaker
 CURTIS G. SHAKER
 Presiding

Done this 16th day of July 1948.

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
22 JULY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Dr. Alfred Seidl, counsel for the Defendant Duerrfeld, has filed a motion, dated 19 June 1948, for the correction of a translation error in the Prosecution's Closing Brief, and on 21 July 1948, the Prosecution has agreed to the following corrections in the transcript and its Final Brief, to wit:

(1) Line 13, of English transcript page 11771, is changed from "of inmates who were unskilled workers doing dirty work than others," to read "of inmates who were unskilled workers doing auxiliary work than the others."

(2) Line 11, page 43, of Part IV of Prosecution's Final Brief under the title of "Certain Activities in the Field of Slave Labor and Mass Murder," the clause "doing dirty work" is modified to read "doing auxiliary work."

IT IS ORDERED by the Tribunal that said corrections be approved.

Wm. B. Thane
Presiding Judge

Paul M. Herbert
Judge

James M. Morris
Judge

Dated this 22nd day of July 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
22 JULY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Dr. Hans Flaeschner, counsel for the Defendant Buetevisch, has filed a petition dated 22 June 1948, reciting that through error Buetevisch Document No. 288, Buetevisch Exhibit No. 184, was designated as Document No. 282 in the transcript and in the English document book.

IT IS ACCORDINGLY ORDERED that said error be corrected in compliance with said petition.

Walter B. Shaw
Presiding Judge

Paul M. Tuley
Judge

James M. M...
Judge

Dated this 22nd day of July 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
22 JULY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

On consideration of the request of the Defendant
Otto Ambros, dated 1 July 1948 for a parole,

IT IS ORDERED that said request be denied.

Charles E. Host
Presiding Judge

Paul M. Herbst
Judge

James M. Moore
Judge

Dated this 22nd day of July 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
22 JULY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

The Prosecution and the Defense have joined in a joint motion to make certain corrections in the official mimeographed copies of the English document books of the Defendants Hoerlein, von Knieriem, Gattineau, Oster and Buergin, and in Defense Document Book DEGESCH I, which said motion is in the nature of a stipulation and is dated 9 July 1948.

The Tribunal hereby approves said stipulation and the corrections contained therein are ordered to be made.

Ernest R. Hane
Presiding Judge

Paul M. Herbert
Judge

James J. Morris
Judge

Dated this 22nd day of July 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
22 JULY 1948

THE UNITED STATES OF AMERICA	:	
- vs. -	:	
CARL KRAUCH, et al.,	:	Case No. 6
Defendants.	:	

On motions of counsel for the Prosecution, dated 14 July 1948, the following corrections are suggested in Part VI of the Prosecution's Final Brief, to wit:

- (1) At page 312, the last sentence of paragraph (24) is stricken.
- (2) On page 313, line 5, of paragraph (27) the references to Prosecution's exhibits 2176 and 2178 are stricken from evidence by the Tribunal.
- (3) On page 315, last sentence of paragraph (29) is stricken since the Tribunal struck from the evidence Prosecution's exhibit 2175.
- (4) At page 474, lines 9 through 11, there was an error in transcription. The sentence should read: "It was pointed out that in most Farben plants, the confidential agents of the Reich War Ministry were also appointed as the confidential agents of the Reich Ministry of Economics (and vice versa) and by appointing the same person to both positions."

Said modifications are hereby approved by the Tribunal.

Lewis H. Howe
Presiding Judge

Samuel H. Hirsch
Judge

James Morris
Judge

Dated this 22nd day of July 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
22 JULY 1948

THE UNITED STATES OF AMERICA :
 :
 - vs. - :
 :
 CARL KRAUCH, et al., :
 :
 Defendants. :
 :

Case No. 8

ORDER

On motion of the Prosecution, dated 14 July 1948, it is pointed out that on page 2 of Prosecution's exhibit 1497 (NI-838), the sentence reading, in German, was translated to read: "The diet and treatment of this sort of people is in accordance with our aim." It has been agreed by counsel for the Prosecution and the Defense that the phrase "in accordance with our aim," shall be stricken and that there shall be substituted in lieu thereof "answering" or "serving the purpose."

Said modification is approved by the Tribunal.

Ernest E. Blawie
Presiding Judge

Lawrence M. Wheat
Judge

James M. Wore
Judge

Dated this 22nd day of July 1948

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
26 JULY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

ORDER

Tribunal VI will convene at 0900 hours on Thursday, 29 July 1948, for the purpose of rendering Judgment in Cause No. 6. It is anticipated that Tribunal VI will be in session, during the regular hours for two days.

Curtis G. Shake

CURTIS G. SHAKE
Presiding

Dated this 26th day of July 1948



Judgment and Sentences of Tribunal, Eng, 29 July 48

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
29 JULY 1948

THE UNITED STATES OF AMERICA
Plaintiff

- vs. -

CARL KRAUCH, HERMANN SCHMITZ, GEORG
VON SCHNITZLER, FRITZ GAJEWSKI,
HEINRICH HOERLEIN, AUGUST VON
KNIERIM, FRITZ TER MEER, CHRISTIAN
SCHNEIDER, OTTO AMBROS, ERNST
BUERGIN, HEINRICH BUNTEFISCH, PAUL
HAKFLIGER, MAX ILGNER, FRIEDRICH
JAKHNE, HANS KUEHNZ, CARL LAUTEN-
SCHLAGER, WILHELM MANN, HEINRICH
OSTER, KARL WURSTER, WALTER
DUERRFELD, HEINRICH GATTINEAU,
ERICH VON DER HEYDE, and HANS
KUGLER

Defendants.

FILED 9900 Hre
29 July 1948
H. H. H. H. H.
Secretary General
1000 City of Nuremberg
Nuremberg, Germany

Case No. 6

JUDGMENT AND SENTENCES OF THE TRIBUNAL



Charles G. Shaker, Presiding Judge
James Morris, Judge
Paul M. Hebert, Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
29 JULY 1948

THE UNITED STATES OF AMERICA :
Plaintiff :
- vs - :
CARL KRAUCH, HERMANN SCHMITZ, :
GEORG VON SCHNITZLER, FRITZ :
GAJEWSKI, HEINRICH HORRLEIN, :
AUGUST VON KNIERIEM, FRITZ TER :
MEER, CHRISTIAN SCHNEIDER, OTTO :
AMEROS, ERNST BUERGIN, HEINRICH :
BUETEPISCH, PAUL HAEPLIGER, MAX :
ILGNER, FRIEDRICH JAEHNE, HANS :
KUEHNE, CARL LAUTENSCHLAGER, :
WILHELM MANN, HEINRICH OSTER, :
KHAL WURSTER, WALTER DUERRFELD, :
HEINRICH GATTINEAU, ERICH VON :
DER HEYDE, and HANS KUGLER :
Defendants :

JUDGMENT

Case No. 6

Organization of the Tribunal:

United States Military Tribunal VI was established pursuant to Ordinance No. 7, promulgated on 18 October 1946, by the Military Governor of the United States Zone of Occupation within Germany. The members hereof were appointed by the President of the United States by his Executive Orders No. 9868, dated 24 June 1947, and No. 9882, dated 7 August 1947, respectively, and were designated as Tribunal VI and organized as such by Headquarters EUCOM General Order No. 87, dated 9 August 1947 and effective 8 August 1947. On 12 August 1947, this cause was assigned to the Tribunal for trial by the Supervisory Committee of Presiding Judges of the United States Military Tribunals in Germany, in conformity with Article V of said Ordinance No. 7, as amended 17 February 1947.

Jurisdiction:

The Tribunal derives its basic authority from Control Council Law No. 10, promulgated by the responsible representatives of the occupation forces of the United States, Great Britain, France, and the Soviet Union in Germany on 20 December 1945. The purpose of said law was declared to be to establish a uniform legal basis for the prosecution of war criminals and other similar offenders, and to give effect to the Moscow

Declaration of 30 October 1943, the London Agreement of 8 August 1945, and the Charter of the International Military Tribunal (hereinafter referred to as IMT) issued pursuant thereto.

The Indictment:

This proceeding was begun by the filing of an Indictment in the Office of the Secretary General by the duly appointed Chief of Counsel for War Crimes on 3 May 1947.

The Indictment consists of five Counts. It purports to be drawn under the provisions of Article II of Control Council Law No. 10. Count One charges the defendants with the commission of crimes against peace through the planning, preparation, initiation and waging of wars of aggression and invasions of other countries. Count Two charges that the defendants committed war crimes and crimes against humanity through participation in the plunder of public and private property in countries and territories which came under the belligerent occupation of Germany. Count Three charges the commission of war crimes and crimes against humanity through participation in enslavement and forced labor of the civilian population of countries and territories occupied or controlled by Germany, the enslavement of concentration-camp inmates within Germany and the use of prisoners of war in war operations and illegal labor. It also charges the mistreatment, terrorization, torture and murder of enslaved persons. Count Four charges the Defendants Schneider, Buetevisch, and von der Heyde with membership in a criminal organization. Count Five charges the participation by the defendants in a conspiracy to commit crimes against peace. The Counts will be further set forth as they are reached for discussion and determination in the course of this Judgment.

The Issues:

A copy of the Indictment in the German language was served

upon each defendant at least thirty days before the arraignment. All of the defendants, except Karl Wurster, Carl Lautenschlaeger, and Max Brueggemann, who were absent on account of illness, entered formal pleas of Not Guilty in open court on 14 August 1947. The Defendants Wurster and Lautenschlaeger subsequently entered like pleas, and Brueggemann was severed from the case and ordered held subject to subsequent proceedings, upon a showing that he was physically unable to stand trial. The Indictment and the pleas of Not Guilty to the charges contained therein constitute the issues upon which the case was tried.

The Trial:

The trial opened 27 August 1947, and the evidence was closed on 12 May 1948. The case was prosecuted by a staff of 12 American attorneys, headed by the Chief of Counsel for War Crimes. Each defendant was represented by an approved chief counsel and assistant counsel of his own choice, all of whom were recognized and competent members of the German bar. In addition, the defendants, as a group, had the services of a specialist of their own selection in the field of international law, several expert accountants, and an administrative assistant to their chief counsel. The proceedings were conducted by simultaneous translation into the English and German languages and were electrically recorded and also stenographically reported. Daily transcripts, including copies of exhibits, in the appropriate language were provided for the use of the Tribunal and counsel. The following tabulation indicates the magnitude of the record:

	<u>Prosecution</u>	<u>Defense</u>	<u>Total</u>
Documents submitted (including affidavits)	<u>2,282</u>	<u>4,102</u>	<u>6,384</u>
Affidavits submitted	<u>419</u>	<u>2,394</u>	<u>2,813</u>
Witnesses called (including those heard by commissioners)	<u>87</u>	<u>102</u>	<u>189</u>
Pages of the transcript (not including the Judgment)			<u>15,638</u>
Trial days consumed (not including hearings before commissioners)			<u>152</u>

Between 2 and 11 June 1948, the Prosecution consumed one day and the Defense six and one-half days in oral argument. Each defendant was allotted ten minutes in which to address the court in his own behalf free of the obligation of an oath, and fourteen availed themselves of this privilege. Exhaustive briefs were submitted on behalf of both sides.

Interlocutory Rulings:

It is deemed appropriate to call attention to some of the more significant rulings made by the Tribunal during the progress of the trial.

(a) Article VII of Military Government Ordinance No. 7 provides that, "The Tribunals...shall admit any evidence which they deem to have probative value (such as) affidavits," and "shall afford the opposing party such opportunity to question the authenticity or probative value of such evidence as in the opinion of the Tribunal the ends of justice require." Among the guarantees for a fair trial accorded defendants by Article IV of said Ordinance is the right "to cross-examine any witness called by the Prosecution." The Tribunal ruled, therefore, that it would receive affidavits in evidence, subject to the right of the opposing party to test the same by cross-examination, if production of the witnesses was requested and they could be produced for that purpose, and that in instances where the witnesses could not be made available the opposing party might procure counter affidavits from

the affiants or submit interrogatories for them to answer, in lieu of cross-examination. In instances where the witnesses could not be cross-examined, counter affidavits procured, or answers to interrogatories obtained, the Tribunal, on motion, struck the affidavits from the evidence. Consistent with this ruling, the Tribunal also refused to admit, over objection, the affidavits of deceased persons.

(b) During the presentation of its case in chief, the Prosecution offered a number of statements made by defendants prior to the filing of the Indictment. These offers were objected to on the ground that such defendants would thereby be compelled to give evidence against themselves, in contravention of fundamental principles of enlightened criminal jurisprudence. The Tribunal ruled: (1) That, if voluntarily given, such statements were competent as admissions against interest; but (2) that if the defendants making such statements did not take the witness stand and thereby subject themselves to cross-examination, such statements would not be regarded as evidence against the other defendants, but that the Tribunal would limit its consideration thereof to the defendants making such statements. In one instance the Tribunal rejected the purported statement of a defendant upon a showing that the same was given while said defendant was under duress.

(c) In response to a motion filed by counsel for the defendants, the Tribunal ruled that, as a matter of law, a common plan or conspiracy does not exist as to war crimes and crimes against humanity, as those offenses are defined in Control Council Law No. 10. At the same time, the Tribunal held that the acts described in Sections A and B, under Count Two of the Indictment, would not, as a matter of law, constitute crimes against humanity, since they related wholly to alleged offenses against property; nor would said acts constitute war crimes, since they pertained to incidents occurring in territory not under the belligerent occupation

of Germany. This ruling will be further noticed under that part of the Judgment devoted to Count Two of the Indictment.

(d) During the trial the defendants were granted rights of access to the captured Farben papers in the Office of the Chief Counsel for War Crimes.

(e) The Tribunal refused to pass upon a number of motions raising questions of law and attacking the sufficiency of the evidence, since it felt that it would be in better position to determine such matters after it had had the benefit of the final arguments and briefs of counsel and a timely opportunity to review the large volume of evidence. These issues will be determined by this Judgment.

Farben as an Instrumentality:

Counts One, Two, Three, and Five of the Indictment each allege that "All of the defendants, acting through the instrumentality of Farben and otherwise with divers other persons," committed the acts charged therein. It is also stated in Counts One, Two, and Three that said defendants "were members of organizations or groups, including Farben, which were connected with, the commission of said crimes."

The designation, Farben, as used in the Indictment, has reference to INTERESSEN-GEMEINSCHAFT FARBENINDUSTRIE AKTIENGESELLSCHAFT, which is usually abbreviated to I. G. FARBENINDUSTRIE A. G., and which may be freely translated as meaning "Community of Interests of the Dyestuffs Industries, a Stock Corporation." The corporation is generally referred to as I.G. in the German transcript of the proceedings and as Farben in the English.

Farben came into being during 1925, when the firm of Badische Anilin und Soda Fabrik of Ludwigshafen changed its name to the present designation and merged with five of the other leading German chemical concerns. From 1904, however, some of these firms had been working under community of

interest agreements, and in 1916 they had formed an association council to exercise a measure of joint control over production, marketing, and research and for the pooling of profits. By 1926 the merger had been effected with a capital structure of 1.1 billion Reichsmarks, which exceeded by three times the aggregate capitalization of all the other chemical concerns of any consequence in Germany.

Under the leadership of Dr. Carl Duisberg, the first Chairman of the Aufsichtsrat, and of Dr. Carl Bosch, who succeeded to that position in 1935, Farben steadily expanded its production and its economic power. In 1926 the firm had a staff of 93,742 persons and an annual turnover of 1,209 million Reichsmarks. By 1942 the staff had increased to 187,700 persons and the turnover to 2,904 million Reichsmarks. At the peak of its activities the yearly turnover of the firm exceeded three billion Reichsmarks.

Farben owned or held participating interests in 400 German firms and in about 500 firms in other countries. It also controlled some 40,000 valuable patent rights. The Prosecution denominated the firm, "A State within a State."

Particularly outstanding were Farben's achievements in chemical research and in the practical utilization of its discoveries. Among the many pharmaceutical products which Farben developed and sponsored may be mentioned aspirin, atabrin, the salvarsans. Two of its trademarks, the "Bayer-Cross" in the pharmaceutical field and "Agfa" in photography, are well known throughout the world. In the industrial sphere Farben was a pioneer in the development of the intricate processes by virtue of which dyestuffs, methanol, the plastics, artificial fibres, and light metals are commercially produced on a large scale. The firm played an especially important role in the discovery and development of the processes for making Buna rubber, nitrogen from the air, and

gasoline and lubricants from coal. It is noteworthy that three Nobel-prize winners have been Farben scientists, and that the firm's products won nine grand prizes at the Paris Exposition in 1937.

An enterprise of the magnitude and diversified interests of Farben necessarily required a comprehensive and intricate plan of corporate management. We shall here merely sketch the broad outlines of these, leaving details for further notice in connection with particular subjects and problems.

The Stockholders of Farben numbered approximately a half million. There was an annual meeting, usually attended by financial representatives of groups of shareholders, at which reports were received and considered, capital increases and amendments to the charter were approved, and members of the Aufsichtsrat elected.

The Aufsichtsrat comprised 55 members at the time the merger was effected, but this number was reduced to 23 in 1938 and to 21 by 1940. This body was in the nature of a supervisory board, somewhat comparable, functionally, to those members of a board of directors of an American corporation who are not on the executive committee and who do not actively participate in the management of the business. Under German law the Aufsichtsrat elected and removed members of the Vorstand, called special meetings of the stockholders, and had the right to examine and audit the books and accounts of the firm.

The Vorstand, somewhat like the executive committee of a board of directors, was charged with the actual responsibility for the management of the corporation and represented it in dealings with others. When the Farben merger took place in 1925-1926, its Vorstand consisted of 82 members and most of its functions were delegated to a Working Committee of 26 members. In 1938 the Vorstand was reduced to less than 30 members and the Working Committee was abolished. There was also a Central

Committee within the Working Committee, which survived the abolition of the latter. The Vorstand met, on the average, every six weeks and was presided over by a chairman, who, in some respects, was regarded as its executive head and in others merely as primus inter pares.

In addition to their joint responsibilities, the members of the Vorstand were assigned to positions of leadership in specific fields of activity, roughly grouped under technical and commercial categories. We shall very briefly call attention to these agencies.

The Technical Committee (TEA) was composed of the technical members of the Vorstand and the leading scientists and engineers of Farben. It dealt with questions of research, development of processes, expansion and consolidation of plant facilities, and credit requests for such purposes. Beneath it were 36 sub-committees in chemistry and 5 in engineering. The Technical Committee had a central administrative office in Berlin, called the TEA-Buero, and the 5 engineering sub-committees were grouped together as a Technical Commission (TEKO).

The Commercial Committee (KA), as distinguished from the Technical Committee, concerned itself primarily with financial, accounting, sales, purchasing, and economic political problems. The full committee consisted of about 20 members, including, in addition to Vorstand members, the heads of the Sales Combines and other administrative agencies.

Mixed Committees: Coordination between the Technical and Commercial Committees was achieved through special groups that drew their personnel from both fields. The more important of these were the Chemicals Committee, the Dyestuffs Committee, and the Pharmaceuticals Main Conference.

The numerous Farben plants were operated on the so-called leadership principle. A major unit was usually under the personal supervision of an individual Vorstand member, though

in some instances one member was responsible for more than one unit, while in others a division of responsibility prevailed within a plant, according to production. Unity in policies of management was achieved by grouping the plants geographically and also in accordance with the character of production.

The Works Combines constituted the basis for geographical coordination of the Farben plants. The four original combines were the Upper Rhine, the Main Valley, the Lower Rhine, and Central Germany. In 1929 a fifth, called Works Combine Berlin, was added. The works combines coordinated such matters as overall administration, transportation, storage, etc., in their respective areas.

The Sparten constituted a means of coordinating Farben production activities on the basis of related products. Thus, Sparte I included nitrogen, synthetic fuels, lubricants, and coal; Sparte II embraced dyestuffs and their intermediates, Buna, light metals, chemicals, and pharmaceuticals; Sparte III, synthetic fibres, cellulose and cellophane, and photographic materials.

Sales Combines were established to handle the marketing of the four principal categories of Farben products. Each combine was headed by a Vorstand member, with deputies. These were the Sales Combine Dyestuffs, the Sales Combine Chemicals, the Sales Combine Pharmaceuticals, and the Sales Combine Agfa (photographic materials, artificial fibres, etc.).

The Central Finance Administration (ZEPI), was established in 1927, in connection with an office designated Berlin NW 7. To this was added the Economic Research Department (VOWI) in 1929, and the Economic Policy Department (WIPO) in 1933. In 1935, a Central Office for liaison with the armed forces, called Vermittlungsstelle W, was added. This office dealt with such matters as mobilization questions, military

security, counter-intelligence, secret patents, and research for the armed forces. Each Sparte was represented on its staff.

Unlike the antipathetic attitude of American law toward centralized control of affinitive business enterprises, German law, and to a large extent continental legal systems, encouraged combinations, sometimes rendering them mandatory. Illustrative of this attitude are the following examples:

A Konzern was a group of legally separate entities which were, functionally, under unified management. Farben was sometimes referred to as a Konzern, since it included a number of legally distinct enterprises.

A Kartell (Cartel) was a contractual combination of independent business firms to eliminate competition and regulate markets. Most cartels were international in character and some of them were world-wide in the scope of their operations. Several American firms were affiliated with them and Farben was a party to a large number of such agreements.

A Syndikat (Syndicate) was a more or less localized refinement of the cartel principle that maintained centralized control over production quotas and sales of certain specific products in Germany. Typical of these was the Stickstoff-Syndikat (nitrogen syndicate), of which Farben was a leading member.

We conclude this brief resume of Farben by noting the principal positions held by the several defendants in the firm, together with their affiliations with various political, governmental, technical, and professional groups, to which we have added a showing of the periods of time during which they have been incarcerated in connection with the charges for which they have been on trial before this Tribunal.

AMEROS, Otto: Born 19 May 1901, Weiden, Bavaria. Professor of Chemistry. 1938-1945, member of Vorstand, Technical Committee, and Chemicals Committee; chairman of 3 Farben committees in the chemical field; plant manager of 8 of the most important plants, including Buna-Auschwitz; member of control bodies in several Farben units, including Francolor.

Member of Nazi Party and German Labor Front; Military Economy Leader; special consultant to chief of Research and Development Department, Four-Year Plan; chief of Special Committee "C" (Chemical Warfare), Main Committee on Powder and Explosives, Armament Supply Office; chief of a number of units in the Economic Group Chemical Industry.

Detained in prison from 17 January 1946 to 1 May 1946 and from 13 December 1946 to date.

BUERGIN, Ernst: Born 31 July 1885, Whylen, Baden. Electro-chemist. 1938-1945 member of Vorstand; 1937-1945 guest attendant and member of Technical Committee; chief of Works Combine Central Germany and member of Chemicals Committee during same periods; chief of the Bitterfeld and Wolfen plants; member of various Farben control groups in Germany, Norway, Switzerland, and Spain.

Member of Nazi Party and German Labor Front; Military Economy Leader; collaborator of Krauch in the Four-Year Plan; chairman of technical committee for certain important products, Economic Group Chemical Industry.

Detained in prison from 23 June 1947 to date.

BUETEPIECH, Heinrich: Born 24 February 1894, Hanover. Doctor of Engineering (Physical-Chemical). 1934-1938 deputy member of Vorstand; 1938-1945 full member of Vorstand; 1933-1938 member of Working Committee; 1932-1938 guest attendant in Technical Committee; 1938-1945 member of Technical Committee; 1938-1945 deputy chief of Sparte I (under Schneider); chief of the Leuna Works; chairman or member of control groups of many Farben concerns in the fields of chemicals, explosives, mining,

synthetics, etc., in Germany, Poland, Austria, Czechoslovakia, Yugoslavia, Roumania, and Hungary.

Member of Himmler Circle of Friends; member of Nazi Party and German Labor Front; Lieutenant Colonel of SS; member of NSKK and NSFK; member of National Socialist Bund of Technicians; collaborator of Krauch in the Four-Year Plan; Production Commissioner for Oil, Ministry of Armaments; president of Technical Experts Committee, International Nitrogen Convention, etc.

Detained in prison from 11 May 1945 to date.

LUERFELD, Walter: Born 24 June 1899, Saarbruecken. Doctor of Engineering. Not a member of the Vorstand nor of any committees; 1932-1941 senior engineer of Leuna works; 1941-1944 Prokurist of Farben (a position analogous to attorney-in-fact) and chief of construction and installation at the Auschwitz Plant; 1944-1945 director of Auschwitz Plant.

1937-1945 member of Nazi Party; 1934-1945 member of German Labor Front; 1932-1945 member of National Socialist Flying Corps (Captain 1943-1945); 1944-1945 district chairman for Upper Silesia, Economic Group Chemical Industry; 1918 received the Iron Cross, Class II; 1941 War Service Cross Class II; 1944 War Service Cross Class I.

Detained in prison from 9 June 1945 to 17 June 1945 and from 5 November 1945 to date.

GAJEWSKI, Fritz: Born 13 October 1885, Pillau, East Prussia. Ph.D. in chemistry. 1931-1934 deputy member of Vorstand; 1934-1945 full member of Vorstand; 1929-1938 member of Working Committee; 1933-1945 member of Central Committee; 1929-1945 member of Technical Committee (first deputy chairman 1933-1945); 1929-1945 chief of Sparte III; 1931-1945 chief of Works Combine Berlin; manager of Agfa plants; member of board in numerous other subsidiaries and affiliates, including DAG.

Member of Nazi Party and German Labor Front; member of National Socialist Bund of German Technicians and of Reich Air-Raid Protection Bund; Military Economy Leader; member of several scientific and economic groups.

Detained in prison from 5 October 1945 to date.

GATTINEAU, Heinrich: Born 6 January 1905, Bucharest, Roumania, of German parents. Lawyer. Not a member of the Vorstand but member of Vorstand Working Committee 1932-1935 and of Farben's Southeast Europe Committee 1938-1945; 1934-1938 chief of Farben's Political Economy Department; officer or member of control groups in a dozen Farben units and subsidiaries in Germany and southeastern Europe.

1933-1934 Colonel in the SA; 1935-1945 member of Nazi Party; 1936-1945 supporting member of National Socialist Motor Corps; 1934-1945 member of German Labor Front and National Socialist Welfare Organization; member of Council for Propaganda of German Economy; member of Committee for Southeast Europe of the Economic Group Chemical Industry; holder of Cross for Distinguished Service Class I and II.

Detained in prison from 11 October 1945 to 6 August 1946 and from 11 October 1946 to date.

HAEPLIGER, Paul: A Swiss national, born 19 November 1886, Steffisburg, Canton Bern, Switzerland. Commercial school graduate. Retains his Swiss citizenship and served as honorary Swiss consul in Frankfurt from 1934-1938; acquired German citizenship in 1941 and relinquished it in 1946. 1926-1938 deputy member of Vorstand; 1938-1945 full member of Vorstand; 1937-1945 member of Commercial Committee; 1938-1945 member of Chemicals Committee; 1944-1945 vice-chairman and deputy chief for metals of Sales Combine Chemicals; member of Farben's Southeast Europe, East Asia, and East Committees. Chairman or member of control groups in several Farben units, including concerns in Germany, Austria, Czechoslovakia, Norway, and Italy.

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Was not a member of the Nazi Party but was a member of the German Labor Front.

Detained in prison from 11 May 1945 to 30 September 1945 and from 3 May 1947 to date.

WON DER HEYDE, Erich: Born 1 May 1900, Hong Kong, China, of German parents. Doctor in agriculture. Never a member of the Vorstand or any committees; 1939-1945 "handlungsbevollmaechtigter" with Farben (literally, a "person authorized to act" as distinguished from a "Prokurist" or general attorney-in-fact); 1936-1940 attached to Farben's Economic Policy Department, Berlin NW 7; 1938-1940 counter-intelligence agent for Berlin NW 7, and for a short period deputy to Schneider as chief of Farben's Counter-Intelligence Branch, High Command of the Armed Forces.

1937-1945 member of Nazi Party; 1934-1945 member of German Labor Front and member of the Reiter (mounted) SS (Captain 1940-1945); 1942-1945 attached to the Military Economy and Armament Office, German High Command.

Detained in prison from 28 April 1947 to date.

HOERLEIN, Heinrich: Born 5 June 1883, Wendelsheim, Rhine Hesse. Professor of chemistry. 1926-1931 deputy member of Vorstand; 1931-1945 full member of Vorstand; 1931-1936 member of Working Committee; 1933-1945 member of Central Committee; 1931-1945 member of Technical Committee (second deputy chairman 1933-1945); 1930-1945 chairman of Pharmaceutical Committee; manager of Elberfeld Plant.

Member of Nazi Party, German Labor Front; National Socialist Bund of German Technicians; member of Reich Health Council; officer or member of several scientific bodies.

Detained in prison from 16 August 1945 to date.

ILGNER, Max: Born 28 June 1899, Biebesheim, Hesse. Doctor of political science. 1934-1938 deputy member of Vorstand; 1938-1945 full member of Vorstand; 1933-1938 member of Working Committee; 1937-1945 member of Commercial Committee; 1926-1945 chief of Farben's Berlin NW 7 office; chairman of Southeast Committee; manager of Schkopau Buna Works, deputy manager of Ammoniakwerk Merseburg; officer or member of control groups of 14 concerns in 7 countries, including American I.G. Chemical Corporation, New York.

1937 member of Nazi Party; member of German Labor Front, NSKK, National Socialist Reich Soldiers' Bund; Military Economy Leader; chairman or member of 7 advisory committees to the government; officer or member of 41 chambers of commerce and economic associations and of 21 societies and clubs in Germany and abroad; holder of a half-dozen decorations from World War I, including the Iron Cross and Hesse Medal for Bravery, and of orders of distinction from various other governments.

Detained in prison from 7 April 1945 to date.

JAEHNE, Friedrich: Born 24 October 1879, Neuss, Germany. Dipl. Engineer. 1934-1938 deputy member of Vorstand; 1938-1945 full member of Vorstand and member of Technical Committee (guest attendant since 1926); 1938-1945 deputy chief of Works Combine Main Valley; chairman of the Farben Technical Commission; chief of engineering department of Hoechst plant; member of control boards of several Farben units.

Member of Nazi Party and German Labor Front; Military Economy Leader; member of Greater Advisory Council, Reich Group Industry; member of Presidium of German Standardizing Committee; chief of Technical Committee, Trade Association of the Chemical Industry.

Detained in prison from 18 April 1947 to date.

VON KNIERIEM, August: Born 11 August 1887, Riga, Latvia. Lawyer. 1926-1931 deputy member of Vorstand; 1931-1945 full member of Vorstand, and occasional guest attendant at meetings of Aufsichtsrat; 1931-1938 member of Working Committee; 1938-1945 member of Central Committee; 1931-1945 guest attendant at meetings of Technical Committee; 1933-1945 chairman of Legal Committee and Patent Commission; self-styled "principal attorney" of Farben; member of board in several Farben units and in two Dutch firms at The Hague.

Member of Nazi Party, German Labor Front, National Socialist Lawyers' Association; member of 4 committees and several sub-committees of Reich Group Industry dealing with law, patents, trademarks, market regulation, etc.; member of a large number of professional associations.

Detained in prison from 7 April 1945 to date.

KRAUCH, Carl: Born 7 April 1887, Darmstadt, Germany. Doctor of Natural science, professor of chemistry. Member of Vorstand and of its Central Committee; member and chairman of Aufsichtsrat 1940-1945; chief of Sparte I 1929-1938; chief of Berlin Liaison Office (Vermittlungsstelle W); member of the board in a number of major Farben subsidiaries and affiliates, including the Ford Works at Cologne.

In April 1936 placed in charge of the Research and Development Department for Raw Materials and Foreign Currency on Goering's staff; October 1936 in charge of Research and Development Department in the Office of German Raw Materials and Synthetics, under the Four-Year Plan; July 1938-1945 Plenipotentiary General for Special Questions of Chemical Production; December 1939 Commissioner for Economic Development under Four-Year Plan; 1938-1945 Military Economy Leader; member of Directorate, Reich Research Council.

1937, member of Nazi Party; member of NSFK; member of German Labor Front.

Detained in prison from 3 September 1946 to date.

KURHNE, Hans: Born 3 June 1880, Magdeburg, Germany. Chemist. 1926-1945 member of Vorstand and of Working Committee until 1938; 1925-1945 member of Technical Committee; 1933-1945 chief of Works Combine Lower Rhine; 1926-1945 member of Chemicals Committee; plant leader of Leverkusen plant; officer or member of Aufsichtsrat in numerous Farben concerns within Germany and 8 in 5 other countries.

Became a member of the Nazi Party in 1933 but was expelled shortly thereafter and not reinstated until 1937; member of German Labor Front; member of groups in economic, commercial, and labor offices of the Reich and local governments.

Detained in prison from 29 April 1947 to date.

KUGLER, Hans: Born 4 December 1900, Frankfurt/Main. Doctor of political science. Not a member of the Vorstand; 1928-1945 Prokurist (with title of "Director"); 1934-1945 member of Commercial Committee; 1938-1945 second vice-chairman of Dyestuffs Committee; 1937-1945 member of Dyestuffs Steering Committee; 1943-1945 member of Dyestuffs Application Committee; 1934-1945 chief of Sales Department Dyestuffs for Hungary, Roumania, Yugoslavia, Czechoslovakia, Austria, Greece, Bulgaria, Turkey, the Near East, and Africa; 1939-1945 member of Farben's Southeast Europe Committee; 1942-1944 member of Commercial Committee of Francolor, Paris.

1939-1945 member of Nazi Party; 1934-1945 member of German Labor Front; 1938-1939 Reich Economics Ministry commissioner for Aussig-Falkenau factories, Czechoslovakia, and manager of said plants and member of the Advisory Council of the Aufsichtsrat, 1939-1945.

Detained in prison from 11 July 1945 to 6 October 1945 and from 18 April 1947 to date.

LAUTENSCHLAGER, Carl: Born 27 February 1888, Karlsruhe, Baden. Doctor of medicine, doctor of chemical engineering, professor of pharmacy, honorary senator (regent) of the

Physiological Institute of the University of Heidelberg and the Pharmacological Institute of the University of Freiburg in Breisgau. 1931-1938 deputy member of Vorstand; 1938-1945 full member of Vorstand, member of Technical Committee, and chief of Works Combine Main Valley; 1926-1945 member of Pharmaceuticals Committee; plant leader of Hoechst plant; participant in Pharmaceutical, Scientific, and Main Conferences of Farben.

1938-1945 member of Nazi Party; 1934-1945 member of German Labor Front; 1942-1945 Military Economy Leader; member of various scientific and research organizations.

Detained in prison from 11 December 1945 to date.

MANN, Wilhelm: Born 4 April 1894, Wuppertal-Elberfeld.

Commercial school graduate. 1931-1934 deputy member of Vorstand; 1934-1945 full member of Vorstand; 1931-1938 member of Working Committee; 1937-1945 member of Commercial Committee; 1931-1945 chief of Sales Combine Pharmaceuticals; 1926-1945 member of Farben Pharmaceuticals Committee; chairman of East Asia Committee; official or member of numerous control groups in Farben concerns (including chairmanship in "DEGESCH").

Member of Nazi Party; member of SA with rank of lieutenant; member of German Labor Front; Reich Economic Judge; member of Greater Advisory Council, Reich Group Industry; member of many scientific organizations.

Detained in prison from 19 September 1945 to 16 October 1945 and from 26 March 1947 to date.

TER MEER, Fritz: Born 4 July 1884, Uerdingen, Lower Rhine.

Ph.D. in chemistry. 1926-1945 member of Vorstand; 1926-1938 member of Working Committee; 1933-1945 member of Central Committee; 1925-1945 member of Technical Committee (chairman 1933-1945); 1929-1945 chief of Sparte II; 1936-1945 technical representative on Dyestuffs Committee; officer or member of control groups of numerous Farben units, subsidiaries

and affiliates, including Francolor, Paris, as well as concerns in Italy, Spain, Switzerland, and the United States.

Member of Nazi Party and German Labor Front; Military Economy Leader; member of National Socialist Bund of German Technicians; commissioner for Italy of the Reich Ministry for Armament and War Production; member of Economic Group Chemical Industry, holding several official positions and titles; member of numerous technical and scientific bodies.

Detained in prison from 7 June 1945 to date.

OSTER, Heinrich: Born 9 May 1878, Strasbourg, Alsace-Lorraine. Doctor of philosophy (chemistry). 1928-1931 deputy member of Vorstand; 1931-1945 full member of Vorstand; 1929-1938 member of Working Committee; 1937-1945 member of Commercial Committee; 1930-1945 manager of Nitrogen Syndicate; member of East Asia Committee and chief of Farben's sales organization for nitrogen and oil; member of several control groups in Germany, Austria, Norway, and Yugoslavia.

Member of Nazi Party; supporting member of SS Reitersturm (mounted unit); member of German Labor Front; chief or member of various sections of official or quasi-official bodies. During World War I received the Iron Cross and several state decorations. During World War II received the War Service Cross.

Detained in prison from 31 December 1946 to date.

SCHMITZ, Hermann: Born 1 January 1881, Essen/Ruhr. Commercial college graduate, no degree. 1925-1945 member of Vorstand; 1930-1945 member of Central Committee; 1935-1945 chairman of Vorstand and guest attendant at meetings of Aufsichtsrat; 1929-1940 chairman of the board, I.G. Chemie Basel, Switzerland; 1937-1939 chairman of the board, American I.G. Chemical Corp., New York; chairman of Aufsichtsrat, DAG (formerly Alfred Nobel & Co.); member of Aufsichtsrat, Friedrich Krupp A.G., Essen; chairman or member of control groups in several other subsidiary and affiliated Farben concerns.

In 1933 member of Reichstag; chairman of the Currency Committee of the Reichsbank; member of board of directors, Bank of International Settlements, Basel; member of Committee of Seven, German Gold Discount Bank, Berlin; member or chairman of control groups in several other financial institutions. Member of Committee of Experts on Raw Materials Questions; member of Select Advisory Council, Reich Group Industry; Military Economy Leader.

Detained in prison from 7 April 1945 to date.

SCHNEIDER, Christian: Born 19 November 1887, Kulmbach, Bavaria. Chemist. 1928-1937 deputy member of Vorstand; 1938-1945 full member of Vorstand and of Central Committee; 1937-1938 member of Working Committee; 1929-1938 guest attendant at meetings of Technical Committee; full member 1938-1945; 1938-1945 chief of Sparte I; 1937-1945 chief of plant leaders and chief counter-intelligence agent of Vermittlungsstelle W; manager of Ammoniakwerk Merseburg; chief of Farben's Central Personnel Department; member of control bodies of several Farben units.

Member of Nazi Party; supporting member of SS; member of German Labor Front; member of Advisory Council, Economic Group Chemical Industry; member of Experts Committee, Reich Trustees of Labor.

Detained in prison from 6 February 1947 to date.

VON SCHNITZLER, Georg: Born 28 October 1884, Cologne. Lawyer. 1926-1945 member of Vorstand; 1926-1938 member of Working Committee; 1930-1945 member of Central Committee; 1929-1945 guest attendant of Technical Committee; 1937-1945 chairman of Commercial Committee; 1930-1945 chief of Dyestuffs Sales Combine; various periods between 1926 and 1945, member of other Farben committees, etc.

Member of Nazi Party; Captain of SA ("Sturmabteilung" of the Nazi Party); member of German Labor Front; member of Nazi Automobile Association (part of the SA); Military Economy

Leader; member of Greater Advisory Council, Reich Group Industry; deputy chairman, Economic Group Chemical Industry; vice-president, Court of Arbitration, International Chamber of Commerce; chairman, Council for Propaganda of German Economy; chairman of Aufsichtsrat, Chemische Werke Aussig-Falkenau, Aussig, Czechoslovakia; member of Aufsichtsrat, Francolor, Paris; officer or member of Aufsichtsrat of other Farben affiliates in Spain and Italy.

Detained in prison from 7 May 1945 to date.

WURSTER, Karl: Born 2 December 1900, Stuttgart. Doctor of chemistry. For a brief period assistant in the Institute for Inorganic Chemistry and Chemical Technology at Stuttgart Polytechnic. 1938-1945 member of Vorstand, Technical Committee, and Chemicals Committee; 1940-1945 chief of Works Combine Upper Rhine; chairman of Inorganics Committee and plant leader of the Oppau plant, Ludwigshafen; member of Aufsichtsrat in several Farben concerns.

Member of Nazi Party and German Labor Front; Military Economy Leader; collaborator of Krauch in the Four-Year Plan, Office for German Raw Materials and Synthetics; acting vice-chairman of Presidium, Economic Group Chemical Industry, and chief and chairman of its Technical Committee, Sub-Group for Sulphur and Sulphur Compounds; holder of the Knight's Cross of the War Merit Cross.

Detained in prison from 25 April 1947 to date.

COUNTS ONE AND FIVE

Counts One and Five of the Indictment are predicated on the same facts and involve the same evidence. These two Counts will, therefore, be considered together.

Count One consists of eighty-five paragraphs. The criminal charge is contained in paragraphs one, two, and eighty-five. The other paragraphs are in the nature of a bill of particulars. We quote the three charging paragraphs:

"1. All of the defendants, acting through the instrumentality of Farben and otherwise, with divers other persons during a period of years preceding 8 May 1945, participated in the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries, which wars of aggression and invasions were also in violation of international laws and treaties. All of the defendants held high positions in the financial, industrial and economic life of Germany and committed these Crimes against Peace, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups, including Farben, which were connected with the commission of said crimes.

"2. The invasions and wars of aggression referred to in the preceding paragraph were as follows: Against Austria, 12 March 1938; against Czechoslovakia, 1 October 1938 and 15 March 1939; against Poland, 1 September 1939; against the United Kingdom and France, 3 September 1939; against Denmark and Norway, 9 April 1940; against Belgium, the Netherlands and Luxembourg, 10 May 1940; against Yugoslavia and Greece, 6 April 1941; against the U.S.S.R., 22 June 1941; and against the United States of America, 11 December 1941.

"85. The acts and conduct set forth in this count were committed by the defendants unlawfully, wilfully and knowingly, and constitute violations of international laws, treaties, agreements and assurances, and of Article II of Control Council Law No. 10"

Count Five is predicated on the acts set forth in Counts One, Two, and Three, and charges that:

"146. All the defendants, acting through the instrumentality of Farben and otherwise, with divers other persons, during a period of years preceding 8 May 1945, participated as leaders, organizers, instigators and accomplices in the formulation and execution of a common plan or conspiracy to commit, or which involved the commission of Crimes against Peace, (including the acts constituting War Crimes and Crimes against Humanity, which were committed as an integral part of such Crimes against Peace) as defined by Control Council Law No. 10, and

are individually responsible for their own acts and for all acts committed by any persons in the execution of such common plan or conspiracy.

"147. The acts and conduct of the defendants set forth in Counts One, Two and Three of this Indictment formed a part of said common plan or conspiracy and all of the allegations made in said Counts are incorporated in this Count."

At the close of the Prosecution's evidence the defendants moved for a finding of Not Guilty with respect to the charges and particulars under Counts One and Five. This motion questioned the sufficiency of the evidence with respect to each of the criminal acts charged in the challenged counts. The Tribunal decided to withhold ruling on the motion until final judgment. This Judgment, although embracing a consideration of all of the evidence for both Prosecution and Defense, will effectively and automatically dispose of that motion.

Control Council Law No. 10, as stated in its preamble, was promulgated "In order to give effect to the terms of the Moscow Declaration of 30 October 1943, and the London Agreement of 8 August 1945, and the Charter issued pursuant thereto and in order to establish a uniform legal basis in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal." In Article 1, the Moscow Declaration and the London Agreement are made integral parts of the law. In keeping with the purpose thus expressed, we have determined that Control Council Law No. 10 cannot be made the basis of a determination of guilt for acts or conduct that would not have been criminal under the law as it existed at the time of the rendition of the judgment by the IMT in the case of United States of America vs Hermann Wilhelm Goering, et al. That well-considered Judgment is basic and persuasive precedent as to all matters determined therein. In the IMT case,

Count Two bears a marked similarity to Count One in this case. Count One of that case is similar to our Count Five. Regarding these Counts the IMT said:

"Count One charges the common plan or conspiracy. Count Two charges the planning and waging of war. The same evidence has been introduced to support both counts. We shall therefore discuss both counts together, as they are in substance the same.

"But in the opinion of the Tribunal the conspiracy must be clearly outlined in its criminal purpose. It must not be too far removed from the time of decision and of action. The planning, to be criminal, must not rest merely on the declarations of a party program, such as are found in the twenty-five points of the Nazi Party, announced in 1920, or the political affirmations expressed in 'Mein Kampf' in later years. The Tribunal must examine whether a concrete plan to wage war existed, and determine the participants in that concrete plan.

"It is immaterial to consider whether a single conspiracy to the extent and over the time set out in the indictment has been conclusively proved. Continued planning, with aggressive war as the objective, has been established beyond a doubt.

"The Tribunal will therefore disregard the charges in Count One that the defendants conspired to commit war crimes and crimes against humanity, and will consider only the common plan to prepare, initiate, and wage aggressive war."

In passing judgment upon the several defendants with respect to the common plan or conspiracy charged by Count One and the charges of planning and waging aggressive war as charged by Count Two, the IMT made these observations concerning:

KALTENBRUNNER -- Indicted and found Not Guilty under Count One.

"The Anschluss, although it was an aggressive act, is not charged as an aggressive war, and the evidence against Kaltenbrunner under Count One does not, in the opinion of the Tribunal, show his direct participation in any plan to wage such a war."

FRANK -- Indicted and found Not Guilty under Count One.

"The evidence has not satisfied the Tribunal that Frank was sufficiently connected with the common plan to wage aggressive war to allow the Tribunal to convict him on Count One."

FRICK -- Indicted under Counts One and Two. Found Not Guilty on Count One, Guilty on Count Two.

"Before the date of the Austrian aggression Frick was concerned only with domestic administration within the Reich. The evidence does not show that he participated in any of the conferences at which Hitler outlined his aggressive intentions. Consequently, the Tribunal takes the view that Frick was not a member of the common plan or conspiracy to wage aggressive war as defined in this Judgment ... Performing his allotted duties, Frick devised an administrative organization in accordance with wartime standards. According to his own statement, this was actually put into operation after Germany decided to adopt a policy of war."

STREICHER -- Indicted and found Not Guilty under Count One.

"There is no evidence to show that he was ever within Hitler's inner circle of advisers; nor during his career was he closely connected with the formulation of the policies which led to war. He was never present, for example, at any of the important conferences when Hitler explained his decisions to his leaders. Although he was a Gauleiter, there is no evidence to prove that he had knowledge of those policies. In the opinion of the Tribunal, the evidence fails to establish his connection with the conspiracy or common plan to wage aggressive war as that conspiracy has been elsewhere defined in this Judgment."

FUNK -- Indicted under Counts One and Two. Found Not Guilty on Count One; Guilty on Count Two.

"Funk was not one of the leading figures in originating the Nazi plans for aggressive war. His activity in the economic sphere was under the supervision of Goering as Plenipotentiary General of the Four-Year Plan. He did, however, participate in the economic preparation for certain of the aggressive wars, notably those against Poland and the Soviet Union, but his guilt can be adequately dealt with under Count Two of the Indictment. In spite of the fact that he occupied important official positions, Funk was never a dominant figure in the various programs in which he participated. This is a mitigating fact of which the Tribunal takes notice."

SCHACHT -- Indicted and found Not Guilty under Counts One and Two.

"It is clear that Schacht was a central figure in Germany's rearmament program, and the steps which he took, particularly in the early days of the Nazi regime, were responsible for Nazi Germany's rapid rise as a military power. But rearmament of itself is not criminal under the Charter. To be a crime against peace under Article 6 of the Charter, it must be shown that Schacht carried out this rearmament as part of the Nazi plans to wage aggressive war.

"Schacht was not involved in the planning of any of the specific wars of aggression charged in Count Two. His participation in the occupation of Austria and the Sudetenland (neither of which are charged as aggressive wars) was on such a limited basis that it does not amount to participation in the common plan charged in Count One. He was clearly not one of the inner circle around Hitler, which was most closely involved with this common plan."

DOENITZ -- Indicted under Counts One and two. Found Not Guilty on Count One; Guilty on Count Two.

"Although Doenitz built and trained the German U-boat arm, the evidence does not show he was privy to the conspiracy to wage aggressive wars or that he prepared and initiated such wars. He was a line officer performing strictly tactical duties. He was not present at the important conferences when plans for aggressive wars were announced, and there is no evidence he was informed about the decisions reached there. ... In the view of the Tribunal, the evidence shows that Doenitz was active in waging aggressive war."

VON SCHIRACH -- Indicted and found Not Guilty under Count One.

"Despite the warlike nature of the activities of the Hitler Jugend, however, it does not appear that Von Schirach was involved in the development of Hitler's plan for territorial expansion by means of aggressive war, or that he participated in the planning or preparation of any of the wars of aggression."

SAUCKEL -- Indicted and found Not Guilty under Counts One and Two.

"The evidence has not satisfied the Tribunal that Sauckel was sufficiently connected with the common plan to wage aggressive war or sufficiently involved in the planning or waging of aggressive wars to allow the Tribunal to convict him on Counts One or Two."

VON PAPEN -- Indicted and found Not Guilty
under Counts One and Two.

"There is no evidence that he was a party to the plans under which the occupation of Austria was a step in the direction of further aggressive action, or even that he participated in plans to occupy Austria by aggressive war if necessary. But it is not established beyond a reasonable doubt that this was the purpose of his activity, and therefore the Tribunal cannot hold that he was a party to the common plan charged in Count One or participated in the planning of the aggressive wars charged under Count Two."

SPEER -- Indicted and found Not Guilty under
Counts One and Two.

"The Tribunal is of opinion that Speer's activities do not amount to initiating, planning, or preparing wars of aggression, or of conspiring to that end. He became the head of the armament industry well after all of the wars had been commenced and were under way. His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged under Count One or waging aggressive war as charged under Count Two."

FRITZSCHE -- Indicted and found Not Guilty
under Count One.

"Never did he achieve sufficient stature to attend the planning conferences which led to aggressive war; indeed according to his own uncontradicted testimony he never even had a conversation with Hitler. Nor is there any showing that he was informed of the decisions taken at these conferences. His activities cannot be said to be those which fall within the definition of the common plan to wage aggressive war as already set forth in this judgment It appears that Fritzsche sometimes made strong statements of a propagandistic nature in his broadcasts. But the Tribunal is not prepared to hold that they were intended to incite the German people to commit atrocities on conquered peoples, and he cannot be held to have been a participant in the crimes charged. His aim was rather to arouse popular sentiment in support of Hitler and the German war effort."

BORMANN -- Indicted and found Not Guilty
under Count One.

"The evidence does not show that Bormann knew of Hitler's plans to prepare, initiate, or wage aggressive wars. He attended none of

The important conferences when Hitler revealed piece by piece those plans for aggression. Nor can knowledge be conclusively inferred from the positions he held. It was only when he became head of the Party Chancellory in 1941, and later in 1943 secretary to the Fuehrer when he attended many of Hitler's conferences, that his positions gave him the necessary access. Under the view stated elsewhere which the Tribunal has taken of the conspiracy to wage aggressive war, there is not sufficient evidence to bring Bormann within the scope of Count One."

From the foregoing it appears that the IMT approached a finding of guilty of any defendant under the charges of participation in a common plan or conspiracy or planning and waging aggressive war with great caution. It made findings of guilty under Counts One and Two only where the evidence of both knowledge and active participation was conclusive. No defendant was convicted under the charge of participating in the common plan or conspiracy unless he was, as was the Defendant Hess, in such close relationship with Hitler that he must have been informed of Hitler's aggressive plans and took action to carry them out or attended at least one of the four secret meetings at which Hitler disclosed his plans for aggressive war. The IMT Judgment lists these meetings as having taken place on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939.

It is important to note here that Hitler's public utterances differed widely from his secret disclosures made at these meetings.

Common Knowledge:

During the early stages of the trial the Prosecution spent considerable time in attempting to establish that for some time prior to the outbreak of war there existed in Germany public or common knowledge of Hitler's intention to wage aggressive war. It introduced in evidence excerpts from the program of the Nazi Party and from Hitler's book Mein Kampf .

Prosecution's Exhibit 4 is a summarization of the program

of the NSDAP published in 1941 in the National Socialistic Year Book. This program was proclaimed on 24 February 1920, and remained unaltered down to 1941. The summarization consists of twenty-five points. We quote those dealing with military and foreign policy.

" 1) We demand the unification of all Germans in the greater Germany on the basis of the right of self-determination of peoples.

" 2) We demand equality of rights for the German people in respect to the other nations; abrogations of the peace treaties of Versailles and St. Germain.

" 3) We demand land and territory (colonies) for the sustenance of our people, and colonization for our surplus population."

"12) In consideration of the monstrous sacrifice in property and blood that each war demands of the people, personal enrichment through a war must be designated as a crime against the people. Therefore we demand the total confiscation of all war profits."

"22) We demand abolition of the mercenary troops and formation of a national army."

Much more belligerent in tone are the excerpts from Mein Kampf, the basic theme of which was that the frontiers of the Reich should embrace all Germans. Of this book the INT said:

"Mein Kampf is not to be regarded as a mere literary exercise, nor as an inflexible policy or plan incapable of modification.

"Its importance lies in the unmistakable attitude of aggression revealed throughout its pages."

This book had a circulation throughout Germany of over six million copies. We must bear in mind, however, that it was written by Hitler the politician, before his party came to power. It is consistent with statements that he made to his immediate circle of confidants and plotters, but it is entirely inconsistent with his many speeches and proclamations made as head of the Reich for public consumption. Some of these we will now consider.

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Two thoughts permeated Hitler's public utterances from his seizure of power up until 1939. These were fear of Communism and love of peace. On 17 May 1933, in addressing the German Reichstag, he stressed the futility of violence as a medium for improving the conditions of Germany and Europe and asserted that such violence would necessarily cause a collapse of the social and political order and would result in Communism. He then said that Germany "is also entirely ready to renounce all offensive weapons of every sort if the armed nations, on their side, will destroy their offensive weapons within a specified period, and if their use is forbidden by an international convention.....Germany is at all times prepared to renounce offensive weapons if the rest of the world does the same. Germany is prepared to agree to any solemn pact of non-aggression because she does not think of attacking but only of acquiring security."

On 14 October 1933, Hitler announced the withdrawal of Germany from the League of Nations in a radio speech filled with protestations of the friendly intentions of the Reich and his government's devotion to the cause of peace. Many similar passages are to be found in his public utterances and proclamations down to and including the announcement of the Four-Year Plan.

The Four-Year Plan, according to the Prosecution's version of the evidence, was designed to rearm and rebuild Germany, militarily and economically, for the purpose of waging aggressive war, and the part played by the defendants in the execution of that plan is relied upon as a strong circumstance tending to show their wilful participation in Hitler's plans for aggressive war. The Four-Year Plan was announced to the German public and the world by Hitler's speech of 9 September 1936, delivered at a Nazi Party Rally at Nurnberg. He first reviewed in exaggerated fashion the accomplishments of Germany in the economic field since his rise to power.

He then launched into an outline of an ambitious program to further rehabilitate and strengthen Germany in the ensuing four years. He reminded the people in demagogic style that he had already procured for them increased employment, better highways, more automobiles, stable currency, more constant food supply, and increased production in various fields through German skill and through the development of chemical, mining, and other industries. He justified the increase in Germany's armed forces upon the ground that this was necessary and in proportion to the increasing dangers surrounding Germany. He then said: "The German people, however, has no other wish than to live in peace and friendship with all those who want the peace and who do not interfere with us in our own country."

On 30 January 1937, Hitler made a speech in Berlin at the Kroll Opera House, in which he again discussed the Four-Year Plan and announced a city-planning program of construction for Berlin, concerning which he said: "For the execution of that plan, a period of twenty years is provided. May the Almighty grant us peace, during which the gigantic task may be completed."

On 12 March 1938, Hitler issued a proclamation in extravagant terms attempting to justify the Austrian Anschluss. He attacked the Austrian government under Chancellor Schuschnigg as an oppressor of the people that had proposed a fraudulent election which could only lead to civil war. This, Hitler sought to prevent.

On 18 March 1938, Cardinal Innitzer and the Bishops of Austria issued, from Vienna, a solemn declaration in which they said: "We recognize with joy that the National Socialist movement has produced outstanding achievements in the spheres of national and economic reconstruction as well as in their welfare policy for the German Reich and people, and in particular for the poorest strata of the people. We are also convinced that through the activities of the National Socialist

movement the danger of all-destroying godless Bolshevism was averted." Thus it appears that even high ecclesiastical leaders were misled as to Hitler's ultimate purpose.

After securing Austria for the Reich, Hitler turned his attention to Czechoslovakia and applied increasing pressure upon that country under the pretext of rescuing the Sudeten Germans from claimed oppression by the Czech government. This aggressive attitude on the part of Hitler culminated in the Munich Agreement of 29 September 1938, in which Germany and the United Kingdom, France, and Italy agreed to the occupation of the Sudeten area by German troops and the determination of its frontiers by an international commission. The following day, 30 September, Adolf Hitler and Neville Chamberlain signed the following accord:

"We have had a further conversation today and we are agreed in recognizing that the question of German-English relations is of the highest importance for both countries and for Europe. We regard the Agreement which was signed last evening and the German-English Naval Agreement as symbolic of the wish of our two peoples never again to wage war against each other. We are determined to treat other questions which concern our two countries also through the method of consultation and further to endeavor to remove possible causes of difference of opinion in order thus to contribute towards assuring the peace of Europe."

On 6 December 1938, Georges Bonnet and Joachim von Ribbentrop signed, as foreign ministers for their respective countries, a Franco-German Declaration of pacific and neighborly relations. In making this Declaration public, von Ribbentrop emphasized its contribution to the peaceful relationship of the two countries.

In the light of history we now know that Hitler had no intention of stopping with the gains he had made through the Munich Agreement. He turned his attention to the liquidation of the remainder of Czechoslovakia. On 14 March 1939, the President and the Foreign Minister of the Czech Republic met with von Ribbentrop, Goering, and Keitel and other officials

of the Reich. Under threat of invasion and destruction of their country the Czech officials signed an agreement for the incorporation of the remainder of Czechoslovakia into the German Reich, and on 16 March 1939 a decree was issued creating Bohemia and Moravia a Reich protectorate. In order to justify this move in the minds of the German people, Hitler carried on for some time systematic propaganda against the Czechs, the foundation of which was, as usual, the fear of Russia. The Czechs were accused of negotiating with Russia for the construction and use of airfields and bases on Czech soil. Even in the presence of these activities, Hitler continued to emphasize his love of peace and the necessity of providing for the defense of Germany.

In 1939, Hitler entered into non-aggression pacts with other European states, purporting to be in furtherance of the maintenance of peace. There followed the German-Italian mutual friendship and alliance pact of 22 May 1939; the German-Danish non-aggression pact of 31 May 1939; a non-aggression pact between the German Reich and the Republic of Estonia of 7 June 1939; and a similar pact with the Republic of Latvia on the same date. On 23 August 1939, Germany and the Union of Socialist Soviet Republics likewise entered into a non-aggression pact. These agreements were all made public and are of such a nature as to tend to conceal rather than expose an intention on the part of Hitler and his immediate circle to start an aggressive war.

But what of Poland? In April 1939, Hitler issued strict directives to the High Command to prepare for war against Poland. But, in a speech to the Reichstag, on 28 April 1939, he said:

"I have regretted greatly this incomprehensible attitude of the Polish Government, but that alone is not the decisive fact; the worst is that now Poland like Czechoslovakia a year ago believes, under the pressure of a lying international campaign, that it must call up its troops, although

Germany on her part has not called up a single man, and had not thought of proceeding in any way against Poland.....The intention to attack on the part of Germany which was merely invented by the international press..... "

Thus he continued to mislead the public with reference to his true purpose. He led the public to believe that he still maintained the view that Poland and Germany could work together in harmony--a view which he had expressed to the Reichstag on 20 February 1938, in these words:

"And so the way to a friendly understanding has been successfully paved, an understanding which, beginning with Danzig, has today, in spite of the attempts of certain mischief makers, succeeded in finally taking the poison out of the relations between Germany and Poland and transforming them into a sincere, friendly cooperation. Relying on her friendships, Germany will not leave a stone unturned to save that ideal which provides the foundation for the task which is ahead of us---peace."

While it is true that those with an insight into the evil machinations of power politics might have suspected Hitler was playing a cunning game of soothing restless Europe, the average citizen of Germany, be he professional man, farmer, or industrialist, could scarcely be charged by these events with knowledge that the rulers of the Reich were planning to plunge Germany into a war of aggression.

During this period, Hitler's subordinates occasionally gave expression to belligerent utterances. But, even these can only by remote inference, formed in retrospect, be connected with a plan for aggressive war. The point here is the common or general knowledge of Hitler's plans and purpose to wage aggressive war. He was the dictator. It was natural that the people of Germany listened to and read his utterances in the belief that he spoke the truth.

It is argued that after the events in Austria and Czechoslovakia, men of reasonable minds must have known that Hitler intended to wage aggressive war, although they may not have known the country to be attacked or the time of initiation.

This argument is not sound. Hitler's moves in Austria and Czechoslovakia were for the avowed purpose of reuniting the German people under one Reich. The purpose met general public approval. By a show of force but without war, Hitler had succeeded. In the eyes of his people he had scored great and just diplomatic successes without endangering the peace. This was affirmed in the common mind by the Munich Agreement and the various non-aggressive pacts and accords which followed. The statesmen of other nations, conceding Hitler's successes by the agreements they made with him, affirmed their belief in his word. Can we say the common man of Germany believed less?

We reach the conclusion that common knowledge of Hitler's plans did not prevail in Germany, either with respect to a general plan to wage aggressive war, or with respect to specific plans to attack individual countries, beginning with the invasion of Poland on 1 September 1939.

Personal Knowledge:

It is a basic fact that a plan or conspiracy to wage wars of aggression did exist. It was primarily the plan of Hitler and was participated in, as to both its formation and execution, by a group of men having a particularly close and confidential relationship with the Dictator. It was a secret plan. At first, it was general in scope and, later, became more specific and detailed. This is established by unquestioned events. Its purpose was to make Germany the dominant military and economic power of Europe by militant diplomacy, and finally by conquest. It started more as an objective than as a plan complete in detail. From time to time it bore offspring--the specific plans for conquest.

It is not clear when Hitler first conceived his general plan of aggression, or with whom he first discussed it. He made a definite disclosure at a secret meeting on 15 November 1937. The persons present were Lieutenant Colonel Hossbach,

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Hitler's personal Adjutant; Goering, Commander-in-Chief of the Luftwaffe; von Neurath, Reich Foreign Minister; Raeder, Commander-in-Chief of the Navy; General von Blomberg, Minister of War; and General von Fritzsche, Commander-in-Chief of the Army. This meeting was followed by other secret meetings of special significance on 23 May 1939, 22 August 1939, and 23 November 1939. Thus three of the meetings preceded the invasion of Poland. None of the defendants attended any of these meetings.

If the defendants, or any of them, are to be held guilty under either Count One or Five or both on the ground that they participated in the planning, preparation, and initiation of wars of aggression or invasions, it must be shown that they were parties to the plan or conspiracy, or, knowing of the plan, furthered its purpose and objective by participating in the preparation for aggressive war. The solution of this problem requires a consideration of basic facts disclosed by the record. These facts include the positions, if any, held by the defendants with the state and their authority, responsibility, and activities thereunder, as well as their positions and activities with or in behalf of Farben.

In weighing the evidence and in determining the ultimate facts of guilt or innocence with respect to each defendant, we have sought to apply these fundamental principles of Anglo-American criminal law:

1. There can be no conviction without proof of personal guilt.
2. Guilt must be proved beyond a reasonable doubt.
3. Each defendant is presumed to be innocent, and that presumption abides with him throughout the trial.
4. The burden of proof is, at all times, upon the Prosecution.
5. If from credible evidence two reasonable inferences may be drawn, one of guilt and the other of innocence, the latter must prevail. (United States of America vs. Friedrich Flick, et al. Case No. 5, American Military Tribunal IV, Nurnberg, Germany).

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In considering the many conflicts in the evidence and the multitude of circumstances from which inferences may be drawn, as disclosed by the voluminous record before us, we have endeavored to avoid the danger of viewing the conduct of the defendants wholly in retrospect. On the contrary, we have sought to determine their knowledge, their state of mind, and their motives from the situation as it appeared, or should have appeared, to them at the time.

The Prosecution has designated as the number one defendant in this case Carl Krauch, who held positions of importance with both the government and Farben.

While the Farben organization, as a corporation, is not charged under the Indictment with committing a crime and is not the subject of prosecution in this case, it is the theory of the Prosecution that the defendants individually and collectively used the Farben organization as an instrument by and through which they committed the crimes enumerated in the Indictment. All of the members of the Vorstand or governing body of Farben who were such at the time of the collapse of Germany were indicted and brought to trial. This Tribunal found that Max Brueggemann was not in a physical condition to warrant continuing him as a defendant in the case, and by an appropriate order separated him from this trial. All of the other Vorstand members are defendants in this case. The Defendants Duerrfeld, Gattineau, von der Heyde, and Kugler, were not members of the Vorstand but held places of importance with Farben.

If we emphasize the Defendant Krauch in the discussion which follows, it is because the Prosecution has done so throughout the trial and has apparently regarded him as the connecting link between Farben and the Reich on account of his official connections with both.

Krauch became a member of the Vorstand in 1933 and continued in that position until 1940, when he became a member of

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the Aufsichtsrat. From 1929 to 1938 he was Chief of Sparte I.

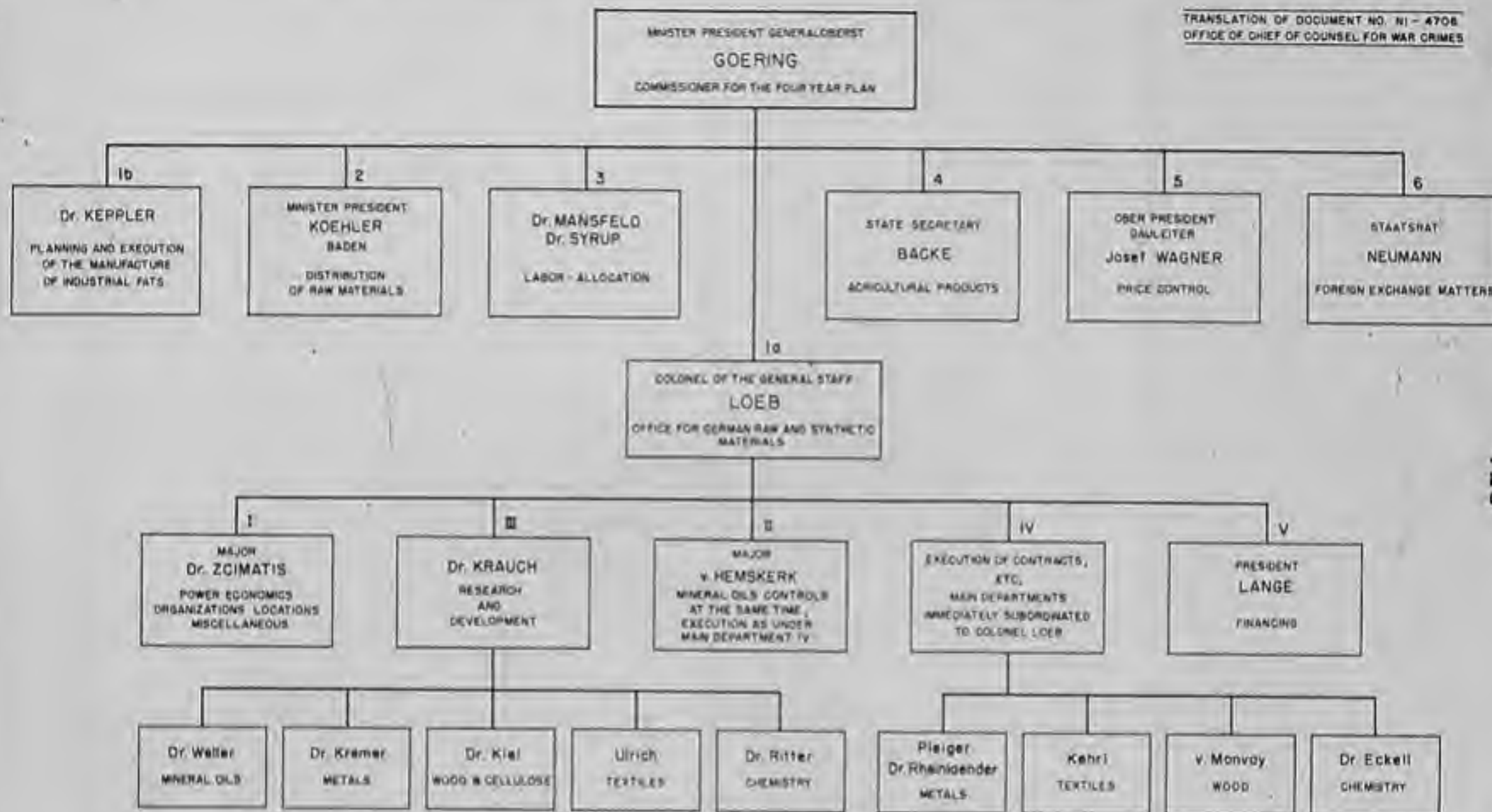
In 1934, Hitler turned his attention to the rearmament of Germany and sought to impress industry with the necessity of participating therein. It was then sought to encourage rearmament through an industrial organization of which Farben was a member, known as the Reich Group Industry. At that time the industries were asked to work out detailed plans for protecting their plants from the results of air raids. Krauch was later given duties in connection with the planning of air-raid protection, which resulted in a reprimand from Goering in Hitler's presence in 1944. He was accused by Goering with failure to properly plan and supervise air-raid protection for plants that were being severely bombed by Allied air forces. It may be noted that this is the only instance in which the Defendant Krauch talked to Hitler. In 1934, it was decided to create a "War Economic Central Office of Farben for all matters of military economy and questions of military policy." Krauch was instrumental in organizing this agency, known as Vermittlungsstelle W, the purpose of which we have concluded to be to act as a clearing house for information concerning rearmament between the various plants and agencies of Farben and the Reich authorities in charge of the rearmament of Germany. It received and distributed information, but it was not an agency for determining policy or for the giving of orders regarding a policy that had already been determined. It did facilitate the cooperation of Farben with the rearmament program, but it was not a planning organization. It was a part of the program for rearmament, but neither its organization nor its operation gives any hint of plans for aggressive war.

In 1936, Krauch joined Goering's staff for Raw Materials and Foreign Currency which had just been set up, and was put in charge of the Research and Development Department. When

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this staff was absorbed into the Office of the Four-Year Plan, headed by Goering, Krauch retained the same position in the Office for German Raw Materials and Synthetics. This office was later renamed the Reich Office for Economic Development when it was placed under the Reich Ministry of Economics.

Shortly after the announcement of the Four-Year Plan, in September 1936, Hitler appointed Goering as commissioner to carry out the plan. Goering appointed seven men to assist him and placed each in charge of a separate department, such as Labor Allocation, Agricultural Production, Price Control, etc. Colonel Loeb was placed in charge of the Office for German Raw Materials and Synthetics. Under Loeb were five departments, over four of which Loeb appointed subordinate executives. The fifth was retained under Loeb's direct control. The Defendant Krauch, being one of these four subordinates, was placed in charge of Research and Development. A visual picture of the structure of the Four-Year Plan thus created may be obtained from a chart, Prosecution's Exhibit 425, which is reproduced herewith:



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In 1938, Hitler and Goering decided to step up production under the Four-Year Plan and, to accomplish this, appointed from time to time at least nine Special Plenipotentiaries with limited duties and authority. In July 1938, Krauch was appointed Plenipotentiary General for Special Questions of Chemical Production. Under this appointment it became his task to supervise as an expert the development of the chemical industry in furtherance of the Four-Year Plan. However, the Army Ordnance Office and the Reich Ministry of Economics determined the requirements for individual chemical production. Later the Ministry of Armament assumed this authority. Plans for the expansion of existing plants or the setting up of new plants came within the province of Krauch. But even such plans could not be executed without first having been approved by the Plenipotentiary General for the Building Industry and the Plenipotentiary for Labor. Krauch was not authorized to decide questions relating to current chemical production. Neither could he issue production orders or interfere with the allocation of production. Thus it appears his authority was limited largely to giving expert opinions on technical development, recommending plans for the expansion or erection of plants, and general technical advice in the chemical field.

The evidence is clear that Krauch did not participate in the planning of aggressive wars. The plans were made by and within a closely guarded circle. The meetings were secret. The information exchanged was confidential. Krauch was far beneath membership in that circle. No opportunity was afforded to him to participate in the planning, either in a general way or with regard to any of the specific wars charged in Count One.

The record is also clear that Krauch had no connection with the initiation of any of the specific wars of aggression

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or invasions in which Germany engaged. He was informed of neither the time nor method of initiation. The evidence that most nearly approaches Krauch is that pertaining to the preparation for aggressive war. After World War I, Germany was totally disarmed. She was stripped of war material and the means of producing it. Immediately upon the acquisition of power by the Nazis, they proceeded to rearm Germany, secretly and inconspicuously at first. As the rearmament program grew, so also did the boldness of Hitler with reference to rearmament. Rearmament took the course, not only of creating an army, a navy, and an air force, but also of coordinating and developing the industrial power of Germany so that its strength might be utilized in support of the military in event of war. The Four-Year Plan, initiated in 1936, was a plan to strengthen Germany as both a military and an economic power, although, in its introduction to the German people, the military aspect was kept in the background.

In order to conceal Germany's growing military power, strict measures were undertaken to impose secrecy, not only regarding military matters, but also regarding Germany's growing industrial strength. This served two purposes: it tended to conceal the true facts from the world and from the German public; it also kept the people who were actually participating in rearmament from learning of the progress being made outside of their own specific fields of endeavor, and kept them in ignorance of the actual state of Germany's military strength. The dictatorial system was in full control. Even people in high places were kept in ignorance and were not permitted to disclose to each other the extent of their individual activities in behalf of the Reich. A striking example of this is Keitel's objection to Krauch's appointment as Plenipotentiary General for Special Questions of Chemical Production, on the ground that Krauch, as a man of industry and not of the military, should not obtain insight into the armament fields. He pointed out that

anyone in that position might learn how many divisions were being set up in the army and what plans were being made for bomber squadrons. The evidence shows that, although Krauch was appointed over the objection of Keitel, he was never fully trusted by the military. His functions and authority were limited to fields bordering on military affairs. He could not act without the cooperation of the Army Ordnance Office. The evidence does not show that anyone told Krauch that Hitler had a plan or plans to plunge Germany into aggressive war. Moreover, the positions that Krauch held with reference to the government did not, necessarily, result in the acquisition by him of such knowledge.

The IMT stated that, "Rearmament of itself is not criminal under the Charter." It is equally obvious that participation in the rearmament of Germany was not a crime on the part of any of the defendants in this case, unless that rearmament was carried out, or participated in, with knowledge that it was a part of a plan or was intended to be used in waging aggressive war. Thus we come to the question which is decisive of the guilt or innocence of the defendants under Counts One and Five---the question of knowledge.

We have already discussed common knowledge. There was no such common knowledge in Germany that would apprise any of the defendants of the existence of Hitler's plans or ultimate purpose.

It is contended that the defendants must have known from events transpiring within the Reich that what they did in aid of rearmament was preparing for aggressive war. It is asserted that the magnitude of the rearmament effort was such as to convey that knowledge. Germany was re-arming so rapidly and to such an extent that, when viewed in retrospect in the light of subsequent events, armament production might be said to impute knowledge that it was in excess of the requirements of defense. If we were trying military experts, and it was

shown that they had knowledge of the extent of rearmament, such a conclusion might be justified. None of the defendants, however, were military experts. They were not military men at all. The field of their life-work had been entirely within industry, and mostly within the narrower field of the chemical industry with its attendant sales branches. The evidence does not show that any of them knew the extent to which general rearmament had been planned, or how far it had progressed at any given time. There is likewise no proof of their knowledge as to the armament strength of neighboring nations. Effective armament is relative. Its efficacy depends upon the relative strength with respect to the armament of other nations against whom it may be used either offensively or defensively.

The fields in which Farben was active were those of synthetic rubber, gasoline, nitrogen, light metals, and, to some extent, through an affiliated company, explosives. The defendants contend that in the first three fields their primary purpose was to serve civilian needs. Hitler was building Autobahns and was encouraging the assembly-line production of small automobiles. A large increase in the demand for tires was taking place. The German army was, of course, interested in more and better tires. It collaborated with Farben in expanding rubber production and in testing tires made from Buna rubber. The production of gasoline likewise received military encouragement. Experimentation and production in the high-octane processes was particularly for the benefit of the air force.

Nitrogen is a product in great demand for agriculture in peace time. The impoverished German soil required much fertilization in order to make it produce needed food for a country that was dependent to a substantial degree upon imports for the nourishment of its people. Nitrogen also is a basic and indispensable element in the making of most explosives. Its

production can readily be turned from the needs of peace to those of war. The Reich, therefore, encouraged Farben to greatly expand its facilities for producing nitrogen. Light metals had their peacetime uses. They were also war necessities, particularly in the production of airplanes. The Defense, however, points out that the airplane itself is not always an instrument of war but is used as a medium of peacetime transportation.

The Luftwaffe, however, was not a peace-time organization. It utilized the coming war arm of modern nations. The defendants, who participated in the expansion of light metal production capacity, in cooperation with Luftwaffe officials, of course knew that thereby they were strengthening Germany's war potential. Similar knowledge must be attributed to those who participated in the expansion of Farben's capacity to produce Buna rubber, gasoline, and nitrogen. It was all a part of an over-all plan or program to strengthen Germany in the fields of economy and rearmament. To the extent that the activities of the defendants through the mediums just described contributed materially to the rearmament of Germany, the defendants must be charged with knowledge of the immediate result. The evidence is not so clear as to Farben's responsibility for the increase in production of explosives. The initiative in this field clearly lay with the Reich, but Farben aided the production by furnishing both experts and capital for the expansion of explosive enterprises, and, to that extent, at least, participated in rearmament. The Prosecution, however, is confronted with the difficulty of establishing knowledge on the part of the defendants not only of the rearmament of Germany, but also that the purpose of rearmament was to wage aggressive war. In this sphere the evidence degenerates from proof to mere conjecture. The defendants may have been, as some of them undoubtedly were, alarmed at the accelerated pace that armament was taking.

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Yet even Krauch, who participated in the Four-Year Plan within the chemical field, undoubtedly did not realize that, in addition to strengthening Germany, he was participating in making the nation ready for a planned attack of an aggressive nature. Krauch did not figure in the planning of the production of any of the items that we have discussed until about the middle of the year 1938. Production planning was carried on by the planning department of the Reich Office for Economic Development, which was not subordinated to Krauch's supervision. Upon being informed by Loeb as to statistics with respect to production and the time required for accomplishment, Krauch reached the conclusion that the figures were to a large extent erroneous and misleading and so informed Goering, who asked for Krauch's comment. Krauch then produced what is known as the Karinhall Plan, which provided for an expansion of facilities and the acceleration of production of mineral oils, Buna rubber, and light metals. In the meantime, Keitel had furnished Goering with figures concerning powder, explosives, and certain raw products used in their production. The correctness of these figures, too, was questioned by Krauch, whereupon Goering called upon Krauch to collaborate with the Army Ordnance Office in preparing an accelerated and corrected plan for the production of powder, explosives, and pertinent raw products. The plan thus produced is known as the Schnell or Rush Plan. The evidence is conflicting as to whether Krauch or the Army Armament Office was dominant in determining the questions involved in preparing this plan.

We now reach the next question of whether from Krauch's activities in connection with the Four-Year Plan, the Karinhall Plan, and the Schnell Plan, he may be said to have known that the ultimate objective of Hitler, Goering, and the other Nazi chiefs was to wage a war or wars of aggression. On 29 April 1939, Krauch rendered a report to his superior Goering

and to the General Council, setting forth at length the goals to be reached in the spheres of mineral oil, rubber, light metals, as well as gunpowder, explosives, and chemical-warfare agents under the Karinhall and Schnell plans. With respect to mineral oil, which he breaks down into gasoline, Diesel fuel, heating and lubricating oil, the final target is set for 1943. In his analysis he gives the peace-time requirements for 1943, which is scarcely an indication that he was aware of Hitler's already existing plan to attack Poland in the fall of 1939. The plans for Buna rubber also include the year 1943. In the field of light metals the temporary goal for aluminum would be reached in 1942 according to the plan, while a similar goal was set for magnesium. In justifying his production objectives, Krauch says: "The German expansion target figures for mineral oils are about 13.8 million tons as compared with the French mobilization requirements of about 13 million tons and the British mobilization requirements of about 30 million tons.

"The requirements for fuel oil for the British Navy alone amount to about 12 million tons, i.e., nearly as much as the entire German mobilization requirements.

"The rubber requirements of 120,000 tons per year are directly connected with the German motorization and thereby again with the mineral oil project. The consumption of crude rubber for England was, in 1938, already about 105,000 tons; for France about 60,000 tons.

"The light metals are of the greatest importance, not only for the mobilization of the Air Force, but also for peace-time requirements for the replacement of scarce metals. After completion, target figures for aluminum will reach 250,000 tons, this is half of the present world production, and ten times the present British output. The output of magnesium will, after its completion, amount to thrice the

present world production^a. The production goal for powder and explosives was expected to be reached by the end of 1940; that of chemical warfare agents by mid-1942. He points out that the present production capacity of France and Great Britain already exceeds the final target of the Rush Plan. At the end of this report is a conclusion from which the Prosecution has, with emphasis, quoted several passages as strong evidence of Krauch's knowledge of Hitler's intention to wage a gressive war. This conclusion is in the nature of a commentary on Germany's position of disadvantage with respect to her economic and military situation. The thoughts expressed are none too coherent and are, at times, somewhat inconsistent. It stresses the necessity and importance of strengthening Germany in the military and economic fields. There are some expressions that are consistent with a war-like intention, but to say that these statements impute to the maker a knowledge of impending aggressive war on the part of Germany, is to draw from them inferences that are not justified. He recommends the formation of a uniform major economic bloc consisting of the "four European anti-comintern partners, which Yugoslavia and Bulgaria will soon have to join. Within this bloc there must be a building up and direction of the military economic system from the point of view of defensive warfare by the coalition."

Further on he makes this statement, that is emphasized by the Prosecution: "It is essential for Germany to strengthen its own war potential as well as that of its allies to such an extent that the coalition is equal to the efforts of practically the rest of the world. This can be achieved only by new, strong, and combined efforts by all of the allies, and by expanding and improving the greater economic domain corresponding to the improved raw material basis of the coalition, peaceably at first, to the Balkans and Spain."

Considering the whole report, it seems that Krauch was recommending plans for the strengthening of Germany which, to his mind, was being encircled and threatened by strong foreign powers, and that this situation might and probably would at some time result in war. But it falls far short of being evidence of his knowledge of the existence of a plan on the part of the leaders of the German Reich to start an aggressive war against either a definite or a probable enemy.

Krauch testified at length in behalf of himself and his co-defendants. He emphatically denied all knowledge of Hitler's purpose to wage aggressive war in general or to attack specific victims. He introduced a large volume of evidence tending to support his position of lack of knowledge, to minimize the importance of his official connections with the Reich, and to relieve his co-defendants of responsibility for his acts. To attempt to summarize all the evidence for and against Krauch under Counts One and Five would lengthen this Judgment to unjustifiable proportions. We have examined the many exhibits in great detail and attempted to give to each proper weight and probative value. This labor has led to the definite conclusion that Krauch did not knowingly participate in the planning, preparation or initiation of an aggressive war.

After the attack on Poland, Krauch stayed at his post and continued to function within those spheres of activity in which he was already engaged. It is contended that these activities amounted to participation in the waging of aggressive war. There is no doubt but that he contributed his efforts in much the same manner and measure as thousands of other Germans who occupied positions of importance below the level of the Nazi civil and military leaders who were tried and condemned by the IMT. We will treat the participation of all of the defendants, including Krauch, in the waging of aggressive war later on in this Judgment.

With respect to the other defendants, all were further removed from the scene of Nazi governmental activity than was Krauch. Although he was a member of the Vorstand of Farben throughout the entire period of German rearmament and until 1940, he attended no meetings of the Vorstand after 1936 and made no reports either to that body or its subordinate sections or committees concerning his governmental activities. It is unnecessary and would be inappropriate to carry into this Judgment a discussion in detail of the evidence for and against each defendant. But it is proper to comment, to a limited extent, with respect to Farben and some of the defendants who appear to have been dominant members of the Vorstand.

The Defendant Schmitz was Chairman of the Vorstand from 1935 to 1945. He became Chairman of the Central Committee in 1935. He was actively in attendance at many of the meetings of the Technical Committee and the Commercial Committee. These sub-divisions of the Vorstand dealt respectively with technical questions and commercial questions, arising out of the overall administration of the vast Farben organization. As Chairman of the Vorstand he had no special powers. He is frequently described in this record as primus inter pares, or, first among equals. His field as an expert was finance, and his opinion with respect to such matters carried great weight with his associates.

In 1933, after Hitler's seizure of power, the heads of many leading enterprises paid formal calls on Hitler. Among them was Bosch, the then Chairman of the Vorstand, whom Schmitz later succeeded. The position of industry at that time is described in the interrogation of Goering (Prosecution's Exhibit #58):

"Q. Would Germany have ever entertained this large program of aggression if they had not had full support of the industrialists all the way through?

"A. The industrialists are Germans. They had to support their country.

"Q. Were they forced to do so or did they do so voluntarily?

"A. They did it voluntarily but if they would have refused the state would have stepped in.

"Q. Do you think the state would have been strong enough to have forced the big industry into war if it did not want war?

"A. When the call came for war every industry followed without any difficulty from inner convictions."

On 17 December 1936, at a meeting attended by representatives of various firms, including Farben, Goering threatened industry with seizure by the state if it did not show better cooperation with the Four-Year Plan.

There is a notable dearth of evidence as to important activities engaged in by Schmitz, particularly during the later years covered by the record. In an attempt to show an early alliance between Farben and Hitler, the Prosecution points out that Farben made substantial donations to the Nazi Party. In February 1933, representatives of most of the leading industrial firms of Germany met in Goering's house in Berlin. Hitler was present. He had already been nominated Chancellor of the Reich. The purpose of the meeting was to secure the support of the industrialists in the coming Reichstag election. Both Hitler and Goering made speeches, outlining Hitler's policies insofar as he disclosed them at that time. At the close of the speeches, Goering sought contributions. Von Schnitzler was the only representative of Farben present at this meeting. Most, if not all, of the firms there represented made substantial contributions to a campaign fund to be used in behalf of parties supporting Hitler. The parties that were to participate in the fund were the National Socialist, the Deutsch-Nationale Volkspartei, and the Deutsche Volkspartei. Farben's share was RM 400,000, one of the largest contributions made to the fund.

This contribution was made to a movement that had its basic origin in the unemployment and general financial chaos of a world-wide depression. This condition was at its worst in Germany. The masses had flocked to Hitler's standard, misled by his promises of more work, food, and shelter. Industry followed and contributed to the new movement. To say that this contribution indicates a sinister alliance, is to misread the facts as they then existed and to draw from them inferences based upon Hitler's subsequent career. Schmitz, at the time of this meeting and up until 3 March 1933, was in Switzerland, and it does not appear that he had any personal connection with this contribution.

During the period of rearmament Farben continued to contribute substantial sums to the Nazi Party and to its various allied philanthropic and charitable organizations. In the beginning these contributions were, no doubt, voluntary. As Hitler's power grew and the Nazi Party became more arrogant, their complexion changed from contributions to exactions. Schmitz, as Chairman of the Vorstand, did not display strong resistance to the demands of the Nazi leaders. Neither did he show enthusiasm for cooperation. He apparently heeded the requests and demands of the Reich when that seemed the politic thing to do, even to the extent of honoring suggestions for contributions to various Nazi programs in substantial amounts.

These circumstances, when applied to the Defendant Schmitz individually, or to Farben in general, do not justify an inference of knowledge of Hitler's intention to wage aggressive war.

The Defendant von Schnitzler was a leading personality in the commercial group of Vorstand members. In 1937, he became Chairman of the Commercial Committee. One of the chief responsibilities of this committee was the general supervision of sales of Farben's commodities. This embraced not only matters of domestic sales and finance, but also exports,

foreign exchange, and sales agencies in many countries. After German conquests were underway, the Commercial Committee in general and the Defendant von Schnitzler in particular were active in expanding the Farben interests into conquered countries. He was the salesman and diplomat of Farben. Von Schnitzler has been in confinement since he was arrested on 7 May 1945. He was interrogated many times during the course of his imprisonment. His utterances, some of great length, appear in forty-five written statements, affidavits and interrogations, a number of which have been introduced in evidence. His counsel sought to have all of these statements stricken upon the ground that they were given under threats, duress, and coercion. He claimed that his client had been mistreated, insulted, and humiliated while in prison, and that this treatment resulted in his mental confusion to the extent that he eagerly cooperated with the interrogators in the hope of better treatment and with considerable disregard in many instances for actual facts. We do not think that the showing discloses such duress as would warrant us in excluding this evidence upon the ground that the statements were involuntary, although the circumstances under which they were given undoubtedly greatly depreciate their probative value. The statements themselves disclose that von Schnitzler was seriously disturbed and no doubt somewhat mentally confused by the calamities that had befallen Germany, his firm of Farben, and himself personally. He was extremely voluble. He talked and gave statements in writing to his interrogators with seeming eagerness and in such detail as to both facts and conclusions that we regard selected passages that contain seemingly damaging recitals as having questionable evidentiary value. Some of his later statements change and purport to correct former ones. His eagerness to tell his interrogators what he thought they wanted to know and hear is apparent throughout; as, for instance, this statement which has been emphasized by

the Prosecution: "In June or July 1939, I. G. Farben and all heavy industries well knew that Hitler had decided to invade Poland if Poland would not accept his demands."

Von Schnitzler did not take the witness stand. Pursuant to a ruling of this Tribunal during the course of the trial, his statements are evidence only as to the maker and are excluded from consideration in determining the guilt or innocence of other defendants. Aside from these statements, the evidence against von Schnitzler does not approach that required to establish guilty knowledge. He, like other members of the Vorstand, played a part in Farben's cooperation along with other industries in connection with the Four-Year Plan, although, being a specialist in the commercial field, he did not directly participate in the expansion of Farben production. He was particularly concerned with foreign currency and markets. After the outbreak of the war he approved measures of cooperation between the Intelligence Department of the Army Ordnance Office and Farben agents abroad. We are unable to conclude that either his activities or those of the agents were of particular value in the waging of war. When we sum up all of von Schnitzler's activities, it appears that he was not even remotely connected with the planning, preparation, and initiation of any of Hitler's aggressive wars, and that his support of the war after it broke out did not exceed that of the normal, substantial German citizen and businessman.

Ter Meer was one of the dominant leaders of the Vorstand. His activities were chiefly in the technical field. He was Chairman of the Technical Committee (TEA) from 1933 to 1945. He was Chief of Sparte II from 1929 to 1945. His was probably the greatest influence of all the Vorstand members in the growth and expansion of Farben production during the fifteen years that preceded the collapse of Germany in 1945. Most of Farben's cooperation with the Four-Year Plan was technical and, therefore, came within the sphere of ter Meer's

activities and influence.

In view of the emphasis that is laid upon participation in the rearmament program as being evidence, tending to show knowledge of Hitler's aggressive war intentions, it is remarkable how few contacts ter Meer had with the Nazi leaders. It would seem that if any member of the Farben Vorstand was permitted to learn of Hitler's intentions, ter Meer should have had access to the circle of power. Not only is there lack of proof that ter Meer had access to knowledge of Hitler's intentions with respect to aggressive war, but certain conduct of Farben in fields in which ter Meer was active are inconsistent with such knowledge. On 1 April 1938, Farben and the Imperial Chemical Industries, the dominant chemical firm of Great Britain, jointly founded a dyestuffs plant in Trafford Park, England. These two firms cooperated in the construction work of this plant until the last days of August 1939. Prior to the outbreak of the war, Farben had begun to build a plant of its own near Rouen, France, for the manufacture of textile auxiliary products. In July 1939, Farben decided to begin pharmaceutical production in France. The war intervened before active steps could be taken to carry out this decision. In 1938 and 1939 substantial amounts of nitrogen were delivered to a British firm in England.

It is asserted that the development of synthetic rubber, a product used by the Wehrmacht to facilitate its movement, was an important step in rearmament and an indication of the defendants' knowledge of Hitler's intentions to wage aggressive war. The value of synthetic rubber as a war potential may not be overlooked. But its value as evidence of criminal knowledge is brought into serious question when the failure of Farben to closely guard its process secrets is considered. Buna products were exhibited at the Paris World's Fair in 1937. Scientific lectures on this product were given to the

International Chemical Congress in Rome in 1938, before a Chemical Industrial Society in Paris in 1939, and also in the same year before the American Chemical Society in Baltimore, Maryland.

Farben arranged with an American firm for testing tires made of synthetic rubber. These tests were continued up until the outbreak of war. Ter Meer planned a trip to America in the fall of 1939 in connection with these tests. He was to be accompanied by the Defendants von Knieriem and Ambros, as well as another Farben official. The outbreak of the war interfered with this trip.

In 1938 and subsequent years, Farben concluded sixteen license agreements with American firms. One of these agreements covered a product of war importance, namely, phosphorus. On 1 August 1939, representatives of a Canadian chemical firm were permitted to visit the Ludwigshafen plant of Farben in connection with negotiations for licenses and information concerning the production of ethylene from acetylene. In August 1939, two chemists of the American firm Carbide & Carbon Chemical Company were permitted to visit the Farben plant at Hoechst, the Metallgesellschaft, and the Degussa plant in Frankfurt/Main. This conduct on the part of Ter Meer and his associates is inconsistent with knowledge of approaching aggressive war on the part of men who are charged with participating in the preparation for such war.

The Indictment charges that Farben, through its foreign economic policy, participated in weakening Germany's potential enemies and that Farben carried on propaganda intelligence and espionage activities for the benefit of the Reich. It is particularly emphasized that Farben entered into many contracts with major industrial concerns throughout the world dealing with various phases of experimentation, production, and markets in fields in which Farben found competition. All of these contracts are lumped under the much-abused term

"cartels." Many of these agreements were essential licenses by which Farben permitted foreign firms to manufacture products that were protected by Farben patents. This appears to be a common practice among large business concerns throughout the world, and the fault, if any, would seem to lie with national and international patent law rather than with the firms that avail themselves of the protection which the law affords. Furthermore, we are unable to find the counterpart of the Sherman Anti-Trust Act either in international law or the national statutes of major European powers. It has not been pointed out that any contract made by Farben in and of itself constituted a crime. It is, nevertheless, argued that by virtue of these contracts Farben stifled the industrial development of foreign countries. Agreements between the Standard Oil Company of New Jersey and Farben regarding the development and production of Buna rubber in the United States are pointed to as a specific example. The two companies agreed to exchange information regarding the results of their experiments in this field. Farben outstripped its competitors in experimentation and in methods of production. The Reich had financed Farben to a material extent in the development of Buna and criticized the contracts which Farben had made. In reply to this criticism, Farben, through the Defendant ter Meer, advised the Reich, in substance, that Farben was not complying with its contract in that it was not furnishing to the American concerns the results of its most recent and up-to-date experiments. Ter Meer testified that this communication to the Reich was false and was made for the purpose of avoiding criticism and interference by government officials, and that Farben did, in fact, carry out its contract in good faith. He is supported in the latter statement by the affidavits of two Standard Oil officials who testified as to the great value of the information given by Farben. The record shows no information that was not divulged.

It is true that the development of the manufacture of synthetic rubber in the United States did not keep pace with that in Germany. Natural rubber was then available in the United States at a cost below that of the production of synthetic rubber. We cannot assume, in the absence of more specific evidence, that the failure of the United States to develop the production of synthetic rubber was due to the withholding of information by Farben.

In the field of propaganda, intelligence, and espionage, we find that there was activity on the part of Farben's agents with reference to industrial and commercial matters. German industry and the superiority of German goods were advertised and extolled. Some praise of the German government appeared from time to time, but we cannot reach the conclusion that the advertising campaigns of Farben were essentially for the purpose of emphasizing Nazi ideology. Neither do we give great significance to the fact that the agents were instructed to avoid advertising in journals hostile to Germany. Such advertising policy would seem compatible with business judgment and would be without political significance. The so-called espionage activities of the Farben agents were confined to commercial matters. These agents from time to time reported to Farben information obtained with regard to industrial and commercial development in fields of Farben business interests, particularly with regard to competitors. There is no evidence of reports concerning military or armament matters. Some of the information received by Farben from its agents was turned over to the Reich officials. The evidence clearly shows that Farben was constantly under pressure to gather and furnish to the Reich information concerning industrial developments and production in foreign countries. Farben's reluctance to comply, even to the full extent of information actually received, indicates a lack of cooperation which negatives participation in a conspiracy or knowledge of plans

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on the part of Hitler to wage aggressive war.

We have discussed the Defendant Krauch, who held certain official positions with both Farben and the Reich; the Defendant Schmitz, who was Chairman of the Vorstand; the Defendant von Schnitzler, who was the leading man in the commercial group of Farben; and the Defendant ter Meer, who was the foremost technical expert and who also exerted considerable influence in the administration of affairs of the organization. In each instance we find that they, in more or less important degrees, participated in the rearmament of Germany by contributing to her economic strength and the production of certain basic materials of great importance in the waging of war. The evidence falls far short of establishing beyond a reasonable doubt that their endeavors and activities were undertaken and carried out with the knowledge that they were thereby preparing Germany for participation in an aggressive war or wars that had already been planned either generally or specifically by Adolf Hitler and his immediate circle of Nazi civil and military fanatics.

The remaining defendants, consisting of fifteen former members and four non-members of the Vorstand, occupied positions of lesser importance than the defendants we have mentioned. Their respective fields of operation were less extensive and their authority of a more subordinate nature. The evidence against them with respect to aggressive war is weaker than that against those of the defendants to whom we have given special consideration. No good purpose would be served by undertaking a discussion in this Judgment of each specific defendant with respect to his knowledge of Hitler's aggressive aims.

Waging Wars of Aggression:

There remains the question as to whether the evidence establishes that any of the defendants are guilty of "waging a war of aggression" within the meaning of Article II, 1, (a)

of Control Council Law No. 10. This calls for an interpretation of the quoted clause. Is it an offense under international law for a citizen of a state that has launched an aggressive attack on another country to support and aid such war efforts of his government, or is liability to be limited to those who are responsible for the formulation and execution of the policies that result in the carrying on of such a war?

It is to be noted in this connection that the express purpose of Control Council Law No. 10, as declared in its Preamble, was to "give effect to the terms of the Moscow Declaration of 30 October 1943, and the London Agreement of 8 August 1945, and the charter issued pursuant thereto." The Moscow Declaration gave warning that the "German officers and men and members of the Nazi Party" who were responsible for "atrocities, massacres and cold-blooded mass executions" would be prosecuted for such offenses. Nothing was said in that declaration about criminal liability for waging a war of aggression. The London Agreement is entitled an agreement "for the prosecution and punishment of the major war criminals of the European Axis." There is nothing in that agreement or in the attached Charter to indicate that the words "waging a war of aggression," as used in Article II (a) of the latter, were intended to apply to any and all persons who aided, supported, or contributed to the carrying on of an aggressive war; and it may be added that the persons indicted and tried before the IMT may fairly be classified as "major war criminals" insofar as their activities were concerned. Consistent with the express purpose of the London Agreement to reach the "major war criminals," the Judgment of the IMT declared that "mass punishments should be avoided."

To depart from the concept that only major war criminals--that is, those persons in the political, military, and industrial fields, for example, who were responsible for the

formulation and execution of policies -- may be held liable for waging wars of aggression would lead far afield. Under such circumstances there could be no practical limitation on criminal responsibility that would not include, on principle, the private soldier on the battlefield, the farmer who increased his production of foodstuffs to sustain the armed forces, or the housewife who conserved fats for the making of munitions. Under such a construction the entire manpower of Germany could, at the uncontrolled discretion of the indicting authorities, be held to answer for waging wars of aggression. That would, indeed, result in the possibility of mass punishments.

There is another aspect of this problem that may not be overlooked. It was urged before the IMT that international law had theretofore concerned itself with the actions of sovereign states and that to apply the Charter to individuals would amount to the application of ex post facto law. After observing that the offenses with which it was concerned had long been regarded as criminal by civilized peoples, the high Tribunal said: "Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced." The extension of punishment for crimes against peace by the IMT to the leaders of the Nazi Military and Government was, therefore, a logical step. The acts of a government and its military power are determined by the individuals who are in control and who fix the policies that result in those acts. To say that the government of Germany was guilty of waging aggressive war but not the men who were in fact the government and whose minds conceived the plan and perfected its execution would be an absurdity. The IMT, having accepted the principle that the individual could be punished, then proceeded to the more difficult task of deciding which of the defendants before it were responsible in fact.

In this case we are faced with the problem of determining the guilt or innocence with respect to the waging of aggressive war on the part of men of industry who were not makers of policy but who supported their government during its period of rearmament and who continued to serve that government in the waging of war, the initiation of which has been established as an act of aggression committed against a neighboring nation. Hitler launched his war against Poland on 1 September 1939. The following day France and Britain declared war on Germany. The IMT did not determine whether the latter were waged as aggressive wars on the part of Germany. Neither must we determine that question in this case. We seek only the answer to the ultimate question: Are the defendants guilty of crimes against peace by waging aggressive war or wars? Of necessity, the great majority of the population of Germany supported the waging of war in some degree. They contributed to Germany's power to resist, as well as to attack. Some reasonable standard must, therefore, be found by which to measure the degree of participation necessary to constitute a crime against peace in the waging of aggressive war. The IMT fixed that standard of participation high among those who lead their country into war.

The defendants now before us were neither high public officials in the civil government nor high military officers. Their participation was that of followers and not leaders. If we lower the standard of participation to include them, it is difficult to find a logical place to draw the line between the guilty and the innocent among the great mass of German people. It is, of course, unthinkable that the majority of Germans should be condemned as guilty of committing crimes against peace. This would amount to a determination of collective guilt to which the corollary of mass punishment is the logical result for which there is no precedent in inter-

national law and no justification in human relations. We cannot say that a private citizen shall be placed in the position of being compelled to determine in the heat of war whether his government is right or wrong, or, if it starts right, when it turns wrong. We would not require the citizen, at the risk of becoming a criminal under the rules of international justice, to decide that his country has become an aggressor and that he must lay aside his patriotism, the loyalty to his homeland, and the defense of his own fireside at the risk of being adjudged guilty of crimes against peace on the one hand, or of becoming a traitor to his country on the other, if he makes an erroneous decision based upon facts of which he has but vague knowledge. To require this of him would be to assign to him a task of decision which the leading statesmen of the world and the learned men of international law have been unable to perform in their search for a precise definition of aggression.

Strive as we may, we are unable to find, once we have passed below those who have led a country into a war of aggression, a rational mark dividing the guilty from the innocent. Lest it be said that the difficulty of the task alone should not deter us from its performance, if justice should so require, here let it be said that the mark has already been set by that Honorable Tribunal in the trial of the international criminals. It was set below the planners and leaders, such as Goering, Hess, von Ribbentrop, Rosenberg, Keitel, Frick, Funk, Doenitz, Raeder, Jodl, Seyss-Inquart, and von Neurath, who were found guilty of waging aggressive war, and above those whose participation was less and whose activity took the form of neither planning nor guiding the nation in its aggressive ambitions. To find the defendants guilty of waging aggressive war, would require us to move the mark without finding a firm place in which to reset it.

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We leave the mark where we find it, well satisfied that individuals who plan and lead a nation into and in an aggressive war should be held guilty of crimes against peace, but not those who merely follow the leaders and whose participations, like those of Speer, "were in aid of the war effort in the same way that other productive enterprises aid in the waging of war." (IMT Judgment, Volume 1, page 330).

Conspiracy:

We will now give brief consideration to Count Five, which charges participation by the defendants in the common plan or conspiracy. We have accepted as a basic fact that a conspiracy did exist. The question here is whether the defendants or any of them became parties thereto.

It is appropriate here to quote from the IMT Judgment:

"The Prosecution says, in effect, that any significant participation in the affairs of the Nazi Party or Government is evidence of a participation in a conspiracy that is in itself criminal. Conspiracy is not defined in the Charter. But in the opinion of the Tribunal the conspiracy must be clearly outlined in its criminal purpose. It must not be too far removed from the time of decision and of action. The planning, to be criminal, must not rest merely on the declarations of a party program, such as are found in the 25 points of the Nazi Party, announced in 1920, or the political affirmations expressed in 'Mein Kampf' in later years. The Tribunal must examine whether a concrete plan to wage war existed, and determine the participants in that concrete plan." (Vol. 1, page 225, IMT Judgment).

In order to be participants in a common plan or conspiracy, it is elementary that the accused must know of the plan or conspiracy. In this connection we quote from a case cited by both the Prosecution and Defense, *Direct Sales Company vs. United States*, 319 U.S. 703, 63 S.Ct. 1265. In discussing *United States vs. Faloone*, 311 U.S. 205, 61 S.Ct. 204, 85 L.ed. 128, the Supreme Court of the United States said:

"That decision comes down merely to this, that one does not become a party to a conspiracy by aiding and abetting it, through sales of supplies or otherwise, unless he knows of the conspiracy; and the inference of such knowledge cannot be drawn merely from knowledge the buyer will use the goods illegally."

Further along in the opinion it is said with regard to the intent of a seller to promote and cooperate in the intended illegal use of goods by a buyer:

"This intent, when given effect by overt act, is the gist of conspiracy. While it is not identical with mere knowledge that another purposes unlawful action, it is not unrelated to such knowledge. Without the knowledge, the intent cannot exist. (United States vs. Falcone, supra.) Furthermore, to establish the intent, the evidence of knowledge must be clear, not equivocal. (Ibid.) This, because charges of conspiracy are not to be made out by piling inference upon inference, thus fashioning what, in that case, was called a dragnet to draw in all substantive crimes."

Count Five charges that the acts and conduct of the defendants set forth in Count One and all of the allegations made in Count One are incorporated in Count Five. Since we have already reached the conclusion that none of the defendants participated in the planning or knowingly participated in the preparation and initiation or waging of a war or wars of aggression or invasions of other countries, it follows that they are not guilty of the charge of being parties to a common plan or conspiracy to do these same things.

We find that none of the defendants is guilty of the crimes set forth in Counts One and Five. They are, therefore, acquitted under said Counts.

COUNT TWO

Substance of the Charge:

Under Count Two of the Indictment all of the defendants are charged with the commission of war crimes and crimes against humanity. It is alleged that war crimes and crimes against humanity, as defined by Control Council Law No.10, were committed in that the defendants, during the period from 12 March 1938 to 8 May 1945, acting through the instrumentality of Farben, participated in the "plunder of public and private property, exploitation, spoliation, and other offenses against property, in countries and territories which came under the belligerent occupation of Germany in the course of its invasions and aggressive wars." The charge recites that the particulars set forth constitute "violations of the laws and customs of war, of international treaties and conventions, including Articles 46-56, inclusive, of the Hague Regulations of 1907, of the general principles of criminal law as derived from the criminal laws of all civilized nations, of the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law No.10."

The Indictment charges that the acts were committed unlawfully, wilfully, and knowingly and that the defendants are criminally responsible "in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups, including Farben, which were connected with the commission of said crimes."

Proceeding from the general findings of the DMT on the subject of plunder and pillage, the Indictment further charges: "Farben marched with the Wehrmacht and played a major role in Germany's program for acquisition by conquest. It used its expert technical knowledge and resources to plunder and exploit the chemical and related industries of Europe, to enrich itself from unlawful acquisitions, to strengthen the German

war machine and to assure the subjugation of the conquered countries to the German economy. To that end, it conceived, initiated, and prepared detailed plans for the acquisition by it, with the aid of German military force, of the chemical industries of Austria, Czechoslovakia, Poland, Norway, France, Russia, and other countries." The particulars of the alleged acts of plunder and spoliation are enumerated in sub-paragraphs A through F of Count Two, and need not be repeated here.

The offenses alleged in Count Two are charged, not only as war crimes, but also as crimes against humanity. By a ruling entered on 22 April 1948, the Tribunal sustained a motion filed by the defense challenging the legal sufficiency of Count Two, sub-paragraphs A and B, of the Indictment (paragraphs 90 to 96 inclusive), as applied to the charges of plunder and spoliation of properties located in Austria and in the Sudetenland of Czechoslovakia. The Tribunal ruled that the particulars referred to, even if fully established by the proof, would not constitute crimes against humanity, as the acts alleged related wholly to offenses against property. The immediate ruling of the Tribunal was limited to the Skoda-Weitzler and Aussig-Falkenau acquisitions then under consideration, but the reasoning upon which this portion of the ruling was based is equally applicable to Count Two of the Indictment in its entirety insofar as crimes against humanity are charged.

The Control Council Law recognizes crimes against humanity as constituting criminal acts under the following definition:

"(c) Crimes against Humanity. Atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated."

We adopt the interpretation expressed by Military Tribunal IV in its judgment in the case of the United States of America vs. Friedrich Flick, et al., concerning the scope and application of the quoted provision in relation to offenses against property. That Tribunal said:

".....The 'atrocities and offenses' listed therein, 'murder, extermination,' etc., are all offenses against the person. Property is not mentioned. Under the doctrine of ejusdem generis the catch-all words 'other persecutions' must be deemed to include only such as affect the life and liberty of the oppressed peoples. Compulsory taking of industrial property, however reprehensible, is not in that category. It may be added that the presence in this section of the words 'against any civilian population,' recently led Tribunal III to 'hold that crimes against humanity as defined in C.C. Law No. 10, must be strictly construed to exclude isolated cases of atrocity or persecution whether committed by private individuals or by governmental authority.' (U.S.A. vs. Altstoetter et al, decided 4 December 1947). The transactions before us, if otherwise within the contemplation of Law 10 as crimes against humanity, would be excluded by this holding." (Transcript page 11013).

In accordance with this view, the other particulars of plunder, exploitation, and spoliation, as charged in paragraphs C, D, E, and F of Count Two of the Indictment, will be considered only as charges alleging the commission of war crimes.

It is to be also observed that this Tribunal, in the above-mentioned ruling of 22 April 1948, further held that the particulars set forth in Sections A and B of Count Two, as to property in Austria and the Sudetenland, would not constitute war crimes, as the incidents occurred in territory not under the belligerent occupation of Germany.

We held that, as a state of actual warfare had not been shown to exist as to Austria, incorporated into Germany by the Anschluss, or as to the Sudetenland, covered by the Munich Pact, the Hague Regulations never became applicable. In so ruling, we do not ignore the force of the argument

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that property situated in a weak nation which falls a victim to the aggressor because of incapacity to resist should receive a degree of protection equal to that in cases of belligerent occupation when actual warfare has existed. The Tribunal is required, however, to apply international law as we find it in the light of the jurisdiction which we have under Control Council Law No. 10. We may not reach out to assume jurisdiction. Unless the action may be said to constitute a war crime as a violation of the laws and customs of war, we are powerless to consider the charges under our interpretation of Control Council Law No. 10, regardless of how reprehensible conduct in regard to these property acquisitions may have been. The situation is not the same here in view of the limited jurisdiction of this Tribunal, as it would be if, for example, the criminal aspects of these transactions were being examined by an Austrian or other court with a broader jurisdiction.

In harmony with this ruling, the charges remaining to be disposed under Count Two involve a determination of whether or not the proof sustains the allegations of the commission of war crimes by any defendant with reference to property located in Poland, France, Alsace-Lorraine, Norway, and Russia.

The Law Applicable to Plunder and Spoliation:

The pertinent part of Control Council Law No. 10, binding upon this Tribunal as the express law applicable to the case, is Article II, paragraph (1), sub-section (b), which reads as follows:

"Each of the following acts is recognized as a crime:

.....

"(b) War Crimes. Atrocities or offenses against persons or property constituting violations of the laws or customs of war, including but not limited to, murder, ill treatment or deportation to slave labour or for any other purpose, of civilian

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population from occupied territory, murder or ill treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity." (Underscoring supplied)

This quoted provision corresponds to Article 6, Section (b) of the Charter of the IMT, concerning which that Tribunal held that the criminal offenses so defined were recognized as war crimes under international law even prior to the IMT Charter. There is consequently no violation of the legal maxim nullum crimen sine lege involved here. The offense of plunder of public and private property must be considered a well-recognized crime under international law. It is clear from the quoted provision of the Control Council Law that if this offense against property has been committed, or if the proof establishes beyond reasonable doubt the commission of other offenses against property constituting violations of the laws and customs of war, any defendant participating therein with the degree of criminal connection specified in the Control Council Law must be held guilty under this charge of the Indictment.

Insofar as offenses against property are concerned, a principal codification of the laws and customs of war is to be found in the Hague Convention of 1907 and the annex thereto, known as the Hague Regulations.

The following provisions of the Hague Regulations are particularly pertinent to the charges being considered:

"Art. 46. Family honor and rights, individual lives and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.

"Art. 47. Pillage is formally prohibited.

.....

"Art. 52. Neither requisition in kind nor services can be demanded from communes or inhabitants except for the necessities of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part

in military operations against their own country.

"These requisitions and services shall only be demanded on the authority of the Commander in the locality occupied.

"The requisitions in kind shall, as far as possible, be paid for in ready money; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

"Art. 53. An army of occupation can only take possession of the cash, funds, and property liable to requisition belonging strictly to the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property of the State which may be used for military operations.

"All appliances, whether on land, at sea, or in the air adapted for the transmission of news, or for the transport of persons or things, apart from cases governed by maritime law, as well as depots of arms and, generally, all kinds of war material, even though belonging to Companies or to private persons, are likewise material which may serve for military individuals, but they must be restored at the conclusion of peace, and indemnities paid for them.

.....

"Art. 55. The occupying State shall be regarded only as administrator and usufructuary of the public buildings, real estate, forests, and agricultural works belonging to the hostile State, and situated in the occupied country. It must protect the capital of these properties, and administer it according to the rules of usufruct."

The foregoing provisions of the Hague Regulations are broadly aimed at preserving the inviolability of property rights to both public and private property during military occupancy. They admit of exceptions of expropriation, use, and requisition, all of which are subject to well-defined limitations set forth in the articles. Where private individuals, including juristic persons, proceed to exploit the military occupancy by acquiring private property against the will and consent of the former owner, such action, not being expressly justified by any applicable provision of the Hague Regulations, is in violation of international law.

The payment of a price or other adequate consideration does not, under such circumstances, relieve the act of its unlawful character. Similarly where a private individual or a juristic person becomes a party to unlawful confiscation of public or private property by planning and executing a well-defined design to acquire such property permanently, acquisition under such circumstances subsequent to the confiscation constitutes conduct in violation of the Hague Regulations.

These broad principles deduced from the Hague Regulations will, in general, suffice for a proper consideration of the acts charged as offenses against property under Count Two. But the following additional observations are also pertinent to an understanding of our application of the law to the facts established by the evidence.

Regarding terminology, the Hague Regulations do not specifically employ the term "spoliation," but we do not consider this matter to be one of any legal significance. As employed in the Indictment, the term is used interchangeably with the words "plunder" and "exploitation." It may therefore be properly considered that the term "spoliation," which has been admittedly adopted as a term of convenience by the Prosecution, applies to the wide-spread and systematized acts of dispossession and acquisition of property in violation of the rights of the owners which took place in territories under the belligerent occupation or control of Nazi Germany during World War II. We consider that "spoliation" is synonymous with the word "plunder" as employed in Control Council Law No. 10, and that it embraces offenses against property in violation of the laws and customs of war of the general type charged in the Indictment. In that sense we will adopt and employ the term spoliation in this opinion as descriptive of the offenses referred to.

It is a matter of history of which we may take judicial notice that the action of the Axis Powers, in carrying out looting and removal of property of all types from countries under their occupation, became so widespread and so varied in form and method, ranging from deliberate plunder to its equivalent in cleverly disguised transactions having the appearance of legality, that the Allies, on 5 January 1943, found it necessary to join in a declaration denouncing such acts. The Inter-Allied Declaration was subscribed to by seventeen governments of the United Nations and the French National Committee. It expressed the determination of the signatory nations "to combat and defeat the plundering by the enemy powers of the territories which have been overrun or brought under enemy control." It pointed out that "systematic spoliation of occupied or controlled territory has followed immediately upon each fresh aggression." It recited that such spoliation:

".....has taken every sort of form, from open looting to the most cunningly camouflaged financial penetration, and it has extended to every sort of property -- from works of art to stocks of commodities, from bullion and bank notes to stocks and shares in businesses and financial undertakings. But the object is always the same--to seize everything of value that can be put to the aggressors' profit and then to bring the whole economy of the subjugated countries under control so that they must enslave to enrich and strengthen their oppressors."

The signatory governments deemed it important, as stated in the Declaration, "to leave no doubt whatsoever of their resolution not to accept or tolerate the misdeeds of their enemies in the field of property, however these may be cloaked, just as they have recently emphasized their determination to exact retribution from war criminals for their outrages against persons in the occupied territories." The Declaration significantly concluded that the Nations making the declaration reserve all their rights:

"to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under the occupation or control, direct or indirect, of the Governments with which they are at war, or which belong, or have belonged, to persons (including juridical persons) resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected."

While the Inter-Allied Declaration does not constitute law and could not be given retroactive effect, even if it had attempted to include and express criminal sanctions for the acts referred to, it is illustrative of the view that offenses against property of the character described in the Declaration were considered by the signatory powers to constitute action in violation of existing international law.

In our view, the offenses against property defined in the Hague Regulations are broad in their phraseology and do not admit of any distinction between "plunder" in the restricted sense of acquisition of physical properties, which are the subject matter of the crime, and the plunder or spoliation resulting from acquisition of intangible property such as is involved in the acquisition of stock ownership, or of acquisition of ownership or control through any other means, even though apparently legal in form.

We deem it to be of the essence of the crime of plunder or spoliation that the owner be deprived of his property involuntarily and against his will. From the provisions of the Declaration which we have quoted, it becomes apparent that the invalidity or illegality of the transaction does not attach, even for purposes of rescission in a civil action, unless the transaction can be said to be involuntary in fact. It would be anomalous to attach criminal responsibility to an act of acquisition during belligerent occupancy when the transaction could not be set aside in an action for rescission

and restitution.

It is the contention of the Prosecution, however, that the offenses of plunder and spoliation alleged in the Indictment have a double aspect. It is broadly asserted that the crime of spoliation is a "crime against the country concerned in that it disrupts the economy, alienates its industry from its inherent purpose, makes it subservient to the interest of the occupying power, and interferes with the natural connection between the spoliated industry and the local economy. As far as this aspect is concerned, the consent of the owner or owners, or their representatives, even if genuine, does not affect the criminal character of the act." In its other aspect it is asserted that the crime of spoliation is an offense "against the rightful owner or owners by taking away their property without regard to their will, 'confiscation,' or by obtaining their 'consent' by threats or pressure."

We cannot deduce from Articles 46 through 55 of the Hague Regulations any principle of the breadth of application such as is embraced in the first asserted aspect of the crime of plunder and spoliation. Under the Hague Regulations, "Private property must be respected;" (Art. 46, Para.1) "Pillage is formally prohibited." (Art. 47) and, "Private property cannot be confiscated." (Art. 46, Para.2) The right of requisition is limited to "the necessities of the army of occupation," must not be out of proportion to the resources of the country, and may not be of such a nature as to involve the inhabitants in the obligation to take part in military operations against their country. But with respect to private property, these provisions relate to plunder, confiscation, and requisition which, in turn, imply action in relation to property committed against the will and without the consent of the owner. We look in vain for any provision in the Hague Regulations

which would justify the broad assertion that private citizens of the nation of the military occupant may not enter into agreements respecting property in occupied territories when consent of the owner is, in fact, freely given. This becomes important to the evaluation of the evidence as applied to individual action under the concept that guilt is personal and individual. If, in fact, there is no coercion present in an agreement relating to the purchase of industrial enterprises or interests equivalent thereto, even during time of military occupancy, and if, in fact, the owner's consent is voluntarily given, we do not find such action to be violation of the Hague Regulations. The contrary interpretation would make it difficult, if not impossible, for the occupying power in time of war to carry out other aspects of its obligations under international law, including restoration of order to the local economy in the interests of the local inhabitants. (Article 43, Hague Regulations). On the other hand, when action by the owner is not voluntary because his consent is obtained by threats, intimidation, pressure, or by exploiting the position and power of the military occupant under circumstances indicating that the owner is being induced to part with his property against his will, it is clearly a violation of the Hague Regulations. The mere presence of the military occupant is not the exclusive indication of the assertion of pressure. Certainly where the action of private individuals, including juristic persons, is involved, the evidence must go further and must establish that a transaction, otherwise apparently legal in form, was not voluntarily entered into because of the employment of pressure. Furthermore, there must be a causal connection between the illegal means employed and the result brought about by employing such intimidation.

Under this view of the Hague Regulations, a crucial issue of fact to be determined in most of the alleged acts

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of spoliation charged in Count Two of the Indictment is the determination of whether owners of property in occupied territory were induced to part with their property permanently under circumstances in which it can be said that consent was not voluntary. Commercial transactions entered into by private individuals which might be entirely permissible and legal in time of peace or non-belligerent occupation may assume an entirely different aspect during belligerent occupation and should be closely scrutinized where acquisitions of property are involved, to determine whether or not the rights of property, protected by the Hague Regulations, have been adhered to. Application of these principles will become important in considering the responsibility of members of the Vorstand of Farben, who are sought to be charged under the Indictment, and who did not personally participate in the negotiations or other action leading to the alleged act of spoliation except by virtue of such Vorstand membership.

It can no longer be questioned that the criminal sanctions of international law are applicable to private individuals. The Judgment of Military Tribunal IV, United States vs Flick (Case No.5) held:

"The question of the responsibility of individuals for such breaches of international law as constitute crimes has been widely discussed and is settled in part by the Judgment of IMT. It can not longer be successfully maintained that international law is concerned only with the actions of sovereign states and provides no punishment for individuals."
(Transcript page 10980)

We quote further:

"Acts adjudged criminal when done by an officer of the government are criminal also when done by a private individual. The guilt differs only in magnitude, not in quality. The offender in either case is charged with personal wrong and punishment falls on the offender in propria persona. The application of international law to individuals is no novelty."
(Transcript page 10981)

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Similar views were expressed in the case of the United States vs. Ohlendorf (Case No.9), decided by Military Tribunal II. See transcript of that Judgment, pages 6714-6716.

The IMT, in its Judgment, found it unnecessary to decide whether, as a matter of law, the doctrine of "subjugation" by military conquest has application to subjugation resulting from the crime of aggressive war. The doctrine was held to be inapplicable where there are armies in the field still seeking to restore the occupied country to its rightful owners. The Hague Regulations do not become inapplicable because the German Reich "annexed" or "incorporated" parts of the occupied territory into Germany, as there were, within the holding of the IMT which we follow here, armies in the field attempting to restore the occupied countries to their true owners. We adopt this view. It will therefore become unnecessary, in considering the alleged acts of spoliation in Poland and Alsace-Lorraine, to consider this distinction which has been urged by the Defense.

To the foregoing observations interpreting the applicable law, added mention should be made of the basic principle that no individual defendant may be held guilty of the war crimes, or any aspect thereof, charged under Count Two, unless the competent proof establishes beyond reasonable doubt that he knowingly participated in an act of plunder or spoliation because he was either (a) a principal, or (b) an accessory to the commission of any such crime, or ordered, or abetted the same, or (c) took a consenting part therein, or (d) was connected with plans or enterprises involving its commission, or (e) was a member of an organization or group connected with the commission of any such crime. (Article II, Paragraph 2, of Control Council Law No. 10)

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One of the general defenses advanced is the contention that private industrialists cannot be held criminally responsible for economic measures which they carry out in occupied territories at the direction of, or with the approval of, their government. As a corollary to this line of argument it is asserted that the principles of international law in existence at the time of the commission of the acts here charged do not clearly define the limits of permissible action. It is further said that the Hague Regulations are outmoded by the concept of total warfare; that literal application of the laws and customs of war as codified in the Hague Regulations is no longer possible; that the necessities of economic warfare qualify and extinguish the old rules and must be held to justify the acts charged in keeping with the new concept of total warfare. These contentions are unsound. It is obvious that acceptance of these arguments would set at naught any rule of international law and would place it within the power of each nation to be the exclusive judge of the applicability of international law. It is beyond the authority of any nation to authorize its citizens to commit acts in contravention of international penal law. As custom is a source of international law, customs and practices may change and find such general acceptance in the community of civilized nations as to alter the substantive content of certain of its principles. But we are unable to find that there has been a change in the basic concept of respect for property rights during belligerent occupation of a character to give any legal protection to the widespread acts of plunder and spoliation committed by Nazi Germany during the course of World War II. It must be admitted that there exist many areas of grave uncertainty concerning the laws and customs of war, but these uncertainties have little application to the basic principles relating

to the law of belligerent occupation set forth in the Hague Regulations. Technical advancement in the weapons and tactics used in the actual waging of war may have made obsolete, in some respects, or may have rendered inapplicable, some of the provisions of the Hague Regulations having to do with the actual conduct of hostilities and what is considered legitimate warfare. But these uncertainties relate principally to military and naval operations proper and the manner in which they shall be conducted. We cannot read obliterating uncertainty into those provisions and phases of international law having to do with the conduct of the military occupant toward inhabitants of occupied territory in time of war, regardless of how difficult may be the legal questions of interpretation and application to particular facts. That grave uncertainties may exist as to the status of the law dealing with such problems as bombings and reprisals and the like, does not lead to the conclusion that provisions of the Hague Regulations, protecting rights of public and private property, may be ignored. As a leading authority on international law has put it:

"Moreover, it does not appear that the difficulties arising out of any uncertainty as to the existing law have a direct bearing upon these violations of the rules of war which have provided the impetus for the almost universal insistence on the punishment of war crimes. Acts with regard to which prosecution of individuals for war crimes may appear improper owing to the disputed nature of the rules in question arise largely in connection with military, naval and air operations proper. No such reasonable degree of uncertainty exists as a rule in the matter of misdeeds committed in the course of military occupation of enemy territory. Here the unchallenged authority of a ruthless invader offers opportunities for crimes the heinousness of which is not attenuated by any possible appeal to military necessity, to the uncertainty of the law, or to the operation of reprisals." (Lauterpacht, *The Law of Nations and the Punishment of War Crimes*, 1945 British Year Book of International Law.)

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We find sufficient definiteness and meaning in the provision of the Hague Regulations and find that the provisions which we have considered are applicable and operate as prohibitory law establishing the limits beyond which the military occupant may not go.

The General Facts:

The Judgment of the International Military Tribunal clearly established that the Reich adopted and pursued a general policy of plunder of occupied territories in contravention of the provisions of the Hague Regulations with respect to both public and private property. The IMT found that there was a systematic plunder of public and private property. It found that territories occupied by Germany "were exploited for the German war effort in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy." Such action was held to be criminal under Article 6 (b) of the Charter which, as we have already indicated, corresponds to Article II(1b) of Control Council Law No. 10.

Concerning the methods employed, the IMT stated:

"The methods employed to exploit the resources of the occupied territories to the full varied from country to country. In some of the occupied countries in the East and the West, this exploitation was carried out within the framework of the existing economic structure. The local industries were put under German supervision, and the distribution of war materials was rigidly controlled. The industries thought to be of value to the German war effort were compelled to continue, and most of the rest were closed down altogether. Raw materials and the finished products alike were confiscated for the needs of the German industry. As early as 19 October 1939 the Defendant Goering had issued a directive giving detailed instructions for the administration of the occupied territories....." (Trial of the Major War Criminals, Vol. 1, page 239)

The Goering order, which we find unnecessary to quote, was carried out, according to the IMT, so that the resources were requisitioned in a manner out of all proportion to

the economic resources of the occupied countries, and resulted in famine, inflation, and an active black market. The IMT further pointed out:

"In many of the occupied countries of the East and the West, the authorities maintained the pretense of paying for all the property which they seized. This elaborate pretense of payment merely disguised the fact that the goods sent to Germany from these occupied countries were paid for by the occupied countries themselves, either by the device of excessive occupation costs or by forced loans in return for a credit balance on a 'clearing account' which was an account merely in name." (Ibid, 240)

With reference to the charges in the present Indictment concerning Farben's activities in Poland, Norway, Alsace-Lorraine, and France, we find that the proof establishes beyond a reasonable doubt that offenses against property as defined in Control Council Law No. 10 were committed by Farben, and that these offenses were connected with, and an inextricable part of the German policy for occupied countries as above described. In some instances, following confiscation by Reich authorities, Farben proceeded to acquire permanent title to the properties thus confiscated. In other instances involving "negotiations" with private owners, Farben proceeded permanently to acquire substantial or controlling interests in property contrary to the wishes of the owners. These activities were concluded by entering territory that had been overrun and occupied by the Wehrmacht, or was under its effective control. The action of Farben and its representatives, under these circumstances, cannot be differentiated from acts of plunder or pillage committed by officers, soldiers, or public officials of the German Reich. In those property acquisitions which followed confiscation by the Reich, the course of action of Farben clearly indicates a studied design to acquire such property. In most instances the initiative was Farben's. In those instances in which Farben dealt directly with the private

owners, there was the ever-present threat of forceful seizure of the property by the Reich or other similar measures, such, for example, as withholding licenses, raw materials, the threat of uncertain drastic treatment in peace-treaty negotiations, or other effective means of bending the will of the owners. The power of the military occupant was the ever-present threat in these transactions, and was clearly an important, if not a decisive, factor. The result was enrichment of Farben and the building of its greater chemical empire through the medium of the military occupancy at the expense of the former owners. Such action on the part of Farben constituted a violation of the Hague Regulations. It was in violation of rights of private property, protected by the Laws and Customs of War, and, in the instance involving public property, the permanent acquisition was in violation of that provision of the Hague Regulations which limits the occupying power to a mere usufruct of real estate. The form of the transactions were varied and intricate, and were reflected in corporate agreements well calculated to create the illusion of legality. But the objective of pillage, plunder, and spoliation stands out, and there can be no uncertainty as to the actual result.

As a general defense, it has been urged on behalf of Farben that its action in acquiring a controlling interest in the plants, factories, and other interests in occupied territories was designed to, and did, contribute to the maintenance of the economy of those territories, and thus assisted in maintaining one of the objective aims envisaged by the Hague Regulations. In this regard it is said that the action was in conformity with the obligation of the occupying power to restore an orderly economy in the occupied territory. We are unable to accept this defense. The facts indicate that the acquisitions were not primarily for the purpose of restoring or maintaining the local economy, but

were rather to enrich Farben as part of a general plan to dominate the industries involved, all as a part of Farben's asserted "claim to leadership." If management had been taken over in a manner that indicted a mere temporary control or operation for the duration of the hostilities, there might be some merit to the defense. The evidence, however, shows that the interests which Farben proceeded to acquire, contrary to the wishes of the owners, were intended to be permanent. The evidence further establishes that the action of the owners was involuntary, and that the transfer was not necessary to the maintenance of the German army of occupation. As the action of Farben in proceeding to acquire permanently property interests in the manner generally outlined is in violation of the Hague Regulations, any individual who knowingly participated in any such act of plunder or spoliation with the degree of connection outlined in Article II, paragraph 2 of Control Council Law No. 10, is criminally responsible therefor.

We will now proceed briefly to record our conclusions as to the major aspects of individual acts of spoliation as established by the proof.

A. Spoliation of Public and Private Property in Poland:

We find that the proof establishes beyond reasonable doubt that acts of spoliation and plunder, constituting offenses against property as defined in Control Council Law No. 10, were committed through Farben with respect to three properties located in Poland.

On 7 September 1939, following the invasion of Poland, the Defendant von Schnitzler wired Director Krueger of Farben's Directorate in Berlin, requesting that the Reich Ministry of Economics be informed of the ownership status and other facts concerning four important Polish dyestuffs factories which, it was assumed, would fall into the hands of the Germans within a few days thereafter. The plant

facilities involved were those of Przemysl Chemiczny Boruta, S. A. Zgierz (Boruta), Chemiczna Fabryka Wola Krzystoporska (Wola), and Zaklady Chemiczne W Winnicy (Winnica). Boruta was the property of, and controlled by, the Polish State; Wola was owned by a Jewish family by the name of Szpilfogal; and Winnica was ostensibly owned by French interests, but in reality there was a secret fifty per cent ownership in I.G. Chemie of Basel. In actual effect, Farben controlled the latter half interest because of its relationship with the record owner and because it had option rights of purchase with I.G. Chemie. Farben's interest had been so cloaked at the time of the establishment of Winnica because of Polish restrictions on German capital investments. Farben's half ownership meant it had a legitimate interest to protect but gave no color of right to the dismantling of parts of the Winnica installations.

These three plants, with a fourth plant, Pabjanica, (owned by Swiss interests and not here involved), accounted for more than one half of the Polish dyestuff needs. Von Schnitzler pointed out that the Boruta and Wola were wholly owned by Polish interests and were members of the dyestuffs cartel. He called attention to the considerable and valuable stocks of preliminary, intermediates, and final products in the plants and stated: "Although not wanting to take a position on further operation, we consider it of primary importance that the above-mentioned stocks be used by experts in the interest of German national economy. Only I.G. is in a position to make experts available." A Farben representative was suggested as the appropriate person for the task.

Shortly thereafter, on 14 September 1939, von Schnitzler and Krueger addressed a letter to the Ministry of Economics confirming a conference of that same date. The letter proposed that Farben be named as trustee to administer Boruta,

Wola, and Winnica, to continue operating them, or to close them down, to utilize their supplies, intermediates and final products. Two Farben employees were recommended as executives for the undertaking. Von Schnitzler affirmatively recommended that Wola be closed down permanently and that Boruta be declared to be of special value to the German war economy as most of the German dyestuffs plants were located in the Western Zone, so that Boruta had a "double value." Replying to von Schnitzler's letter, the Reich Ministry of Economics advised that it had decided to comply with Farben's suggestion and would place Boruta, Wola and Winnica, located in former Polish territories, now occupied by German forces, under provisional management. The Reich Ministry of Economics was apparently under no illusions as to Farben's acquisitive desires in provoking the provisional administration. It agreed to name the Farben-recommended employees as provisional managers, but specified that such action created no priority rights for purchase in Farben. This exhibit indicates that the action of the Reich authorities in relation to these properties was directly instigated by Farben. Farben's nominees swung into action and took possession of the plants in early October of 1939. Von Schnitzler next proposed to the Reich authorities by letter on 10 November 1939 that Boruta, on the verge of bankruptcy and without funds for adequate plant equipment, should be leased for 20 years to a Farben subsidiary to be created for that purpose. Wola was to be closed down and its equipment brought to Boruta. Von Schnitzler referred to the necessity for "a certain permanency of conditions," and added that, "if it should be in the interest of the Reich to re-privatize the plant during the twenty-year term, Farben should be given priority rights as to purchase." This letter makes it plain that the purpose and interest of Farben from the outset was permanent acquisition and not temporary operation. Dismantling of

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certain Winnica equipment and its transfer to Boruta was also recommended. At the end of November 1939, von Schnitzler, by letter, submitted Farben's proposals again to Goering, in his capacity as Plenipotentiary for the Four-Year Plan, requesting approval by the Main Trustee Office East of the earlier Farben recommendations. The recommended lease was not executed, and in June 1940 a decision was reached whereby Farben was allowed to purchase Boruta instead of executing a lease. Competition developed for the purchase of the property, and price negotiations were protracted. At the meeting of 4 December 1940, the Farben representatives, who were acting pursuant to von Schnitzler's directions, made it plain that the plant should be acquired by Farben in the interest of the German dyes producers, that the plant must continue operation, and that it must "because of the leadership claim recognized by all official agencies.....be integrated into the sphere of I.G. dyestuffs production," an objective which could be achieved only through purchase. In April 1941, von Schnitzler was advised that the Reichsfuehrer SS had decided to allocate Boruta to Farben. The sales contract, signed by von Schnitzler, was finally concluded on 27 November 1941, with Farben acquiring the land, buildings, machinery, equipment, tools, furniture, and fixtures. It is significant that the sale was made operative as of 1 October 1939, the approximate date of the original seizure and operation by the Farben nominees.

The acquisition of the French interests, consisting of 1,006 shares of the stock of Winnica, was arrived at by agreement with the French coincident with the Francolor negotiations, to which reference will be later made. But we cannot find that the French interests were deprived of their ownership against their will and consent on the basis of the meager evidence before us concerning the Winnica stock transfer to Farben. The evidence on the basis of which

the transfer of shares was declared invalid by the French Court has not been introduced. It would be mere surmise on our part to conclude that the French did not agree to the Farben acquisition, particularly in view of the fact that Farben was already, in practical effect, half owner of the total shares of Winnica. However, the evidence does establish that, on the recommendation of Farben, equipment from both Wola and Winnica was dismantled and shipped to Farben plants in Germany, which constitutes participation in spoliative activities in Poland.

The foregoing findings make it clear that the permanent acquisition by Farben of productive facilities or interest therein, and the dismantling of plant equipment, was exploitation of territories under belligerent occupation in violation of the Hague Regulations.

B. The Charge of Spoliation with Reference to Norway:

We find that offenses against property within the meaning of Control Council Law No. 10 were committed in the acquisition by Farben of property interests in occupied Norway intended to be permanent and against the will and without the free consent of the owners. This finding relates to the Nordisk-Lettmetall project for expansion of the production of light metals in Norway, as a part of which the French shareholders were deprived of their majority stock interest in that company in favor of a German group, including Farben. The initiative in the Nordisk-Lettmetall project was in the Reich authorities, but it is clearly established that Farben joined in the project and that its representatives knew that the power of the Nazi Government then occupying Norway was the dominant consideration forcing the French owners of Norsk-Hydro into the project.

The facts, briefly, are these: Following the aggression against and military occupation of Norway, Hitler decided that the Norwegian aluminum capacity should be reserved for the

requirements of the Luftwaffe. Goering issued appropriate orders, pursuant to which special powers were entrusted to Dr. Koppenberg, who, in his capacity as trustee for aluminum, was given the task of expanding production of light metals in Norway. The plan was an ambitious one, calling for plant expansions and capital investments on a grandiose scale so as eventually to treble the Norwegian production of light metals. Norsk-Hydro Elektrisk Kvaestofaktieselskabet (referred to simply as Norsk-Hydro) was one of Norway's most important industrial concerns operating in the chemical and related fields. Its facilities were required for the project, and certain of its plants were to be expanded and properties transferred to accomplish the German objectives. It is plain from the evidence that the immediate German objective was to harness the resources of Norway, including its water power and raw materials, to the ever-increasing demands of the German war machine, particularly for military aircraft. The decision to carry out this project was made at the highest governmental levels, and the entire power of the military occupant was clearly available to carry it out, as the properties of Norsk-Hydro were located in territory under military occupation.

Farben immediately entered into this large-scale planning and fought for as large a capital participation as possible. It may have accepted the Reich nominees as partners reluctantly, but its consenting participation in the project cannot be doubted.

In addition to the immediate purpose of obtaining light metals for the Luftwaffe, Farben's long-term objective was the establishment of permanent German domination of the light-metals industry of Norway, looking to the time when peace would be achieved through Nazi victory.

The controlling stock interest in Norsk-Hydro, amounting to approximately 54% of the capitalization, was owned by a

group of French shareholders represented by the Banque de Paris et des Pays Bas (referred to as Banque de Paris). The plan finally evolved by the Reich Air Ministry, after numerous conferences in which Farben representatives participated, resulted in creation of a new corporation, Nordisk-Lettmetall, with one-third interest in the Reich Government and its designated agencies, one-third interest in Farben, and one-third interest in Norsk-Hydro. The French owners of Norsk-Hydro did not voluntarily enter the Nordisk-Lettmetall project, but its plant facilities were located in occupied Norway, and the evidence, although conflicting on this point, convinces us that pressure from the Nazi Government and fear of compulsory measures affecting its Norwegian holdings were the dominating considerations. In this manner Norsk-Hydro was forced to join in the project, and its properties were heavily damaged in subsequent allied bombings. Norsk-Hydro sustained severe financial losses as a result of the entire project. After joining in the project, Farben was a major participant in its execution. Nordisk-Lettmetall used Norsk-Hydro's facilities in the project, and some of its valuable properties were utilized for plant expansions.

As a part of the overall plan, the evidence establishes that the Reich authorities deliberately planned to execute the project in such a manner as to deprive Norsk-Hydro's French shareholders of their majority interest in that company. Farben joined too in this aspect of the plan. In order to carry out the wishes of the Nazi Government that Norsk-Hydro participate in the Nordisk-Lettmetall project, it became necessary to increase the capitalization of Norsk-Hydro by 50,000,000 Norwegian Kroners. The French shareholders were not represented at the meeting of 30 June 1941, at which the increase in the capital stock was voted and participation in Nordisk-Lettmetall was voted. They were not authorized by the occupying powers to attend. In carrying

out the increase in capitalization pursuant to the decision reached at the meeting, the Banque de Paris had no means of effectively protecting the pre-emptive rights of the French shareholders, because licenses for the clearing of the foreign exchange necessary for participation in the increased capital stock could not be obtained from the Nazi Government, France then being under military occupation. Under the compulsion of these circumstances the representatives of the French majority of Norsk-Hydro were forced to permit purchase of the pre-emptive rights in the new Norsk-Hydro stock by the German interests, including Farben and the other nominees of the Reich. In this manner the French majority was converted into a minority interest. We have carefully weighed the conflicting evidence and the defenses of fact urged with respect to this matter. It is our conclusion that the French shareholders were deprived of their majority interest in Norsk-Hydro under compulsion resulting from the ever-present threat of seizure of the physical properties of Norsk-Hydro in occupied Norway and that their participation in Nordisk-Lettmetall was not voluntary. The action was in violation of the Hague Regulations, and those who knowingly became parties to the entire transaction must be held guilty under Count Two.

C. Plunder and Spoliation in France:

(1) Alsace-Lorraine. Paragraph 111 of the Indictment recites: "The German Government annexed Alsace-Lorraine, and confiscated the plants located there which belonged to French nationals. Among the plants located in this area were the dyestuffs plant of Kuhlmann's Societe des Matieres Colorantes et Produits Chimiques de Mulhouse, the oxygen plants, the Oxygene Liquide Straessbourg-Schiltigheim (Alsace), and the factory of the Oxhydrique Francaise in Diedenhofen (Lorraine). Farben acquired these plants from the German Government without payment to or consent of the French owners."

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Farben's action in occupied Alsace-Lorraine followed the pattern developed in Poland. The Mulhausen plant of the Societe des Produits Chimiques et Matieres Colorantes de Mulhouse, located in Alsace, was leased by the German Chief of Civil Administration to Farben on 8 May 1941. The plant had been taken possession of pursuant to the general authorization by the Reich for the confiscation of French property. Farben went into possession even prior to the execution of a lease in its favor for the purpose of starting production again. It is clear from the terms of the lease agreement that temporary operation in the interest of the local economy was not contemplated, and that the lease was purely transitional to permanent acquisition by Farben. It contained express provisions obligating the lessor, the Chief of the Civil Administration in Alsace, representing the Nazi Government, to sell the plant and its facilities to Farben as soon as the general regulations and official decrees allowed it. Pursuant to this clause a formal governmental decree of seizure and confiscation, transferring the property to the German Reich, was entered on 23 June 1943. This was followed by the sale on 14 July 1943 to Farben. It is unnecessary to comment upon the flagrant disregard of property rights established by these facts. The violation of the Hague Regulations is clear and Farben's participation therein amply proven.

In the case of the oxygen and acetylene plants, referred to as Strassbourg-Schiltigheim, similar action was taken by Farben. After first taking a lease, Farben proceeded to, and did, acquire permanent title to the plants following the governmental confiscation which was without any legal justification under international law. In none of these transactions were the rights of the owners considered.

In the case of the Diedenhofen plant, located in Lorraine, the plant was leased to Farben but permanent title was never

acquired. Farben urged its claims to purchase upon the occupying authorities, but the German Chief of Civil Administration refused to incorporate a provision for purchase in the lease agreement. For some reason not clear from the evidence, Farben met with difficulty here. The evidence indicates that the plant had been evacuated prior to the Farben operation. This fact, coupled with the attitude of the German authorities and the short term of the lease, leads us to the conclusion that, despite the intention to acquire permanently that was manifested by Farben, the proof does not adequately establish that the owner was deprived of the property permanently, or that its use was withheld contrary to the owner's wishes. We find the evidence insufficient upon which to predicate any criminal guilt with reference to the Diedenhofen plant.

(2) The Francolor Agreement. Paragraphs 103 through 110 of the Indictment charge the defendants with the plunder and spoliation of the principal dyestuffs industries of France by means of the so-called Francolor Agreement. The proof fully sustains the charges outlined in this portion of the Indictment. In utter disregard of the rights of the French, Farben, acting principally through the Defendants von Schnitzler, ter Meer, and Kugler, proceeded with methods of intimidation and coercion to acquire permanently for Farben a majority interest in a new corporation, "Francolor," which was organized to take over the assets of the French concerns. The facts may be briefly summarized as follows: Three of the major dyestuffs firms of France, prior to the war, were Compagnie Nationale de Matieres Colorantes et Manufactures de Produits Chimiques du Nord Reunies Etablissements Kuhlmann, Paris (referred to hereinafter as Kuhlmann); Societe Anonyme des Matieres Colorantes et Produits Chimiques de Saint Denis, Paris (referred to as Saint Denis); and Compagnie Francaise de Produits Chimiques et Matieres Colorantes de Saint-Clair-

du-Rhone, Paris (referred to as Saint-Clair-du-Rhone). These three firms had cartel agreements with Farben, including the so-called Franco-German cartel agreement, entered into in 1927; the so-called "Tri-Partite Agreement," or the Franco-German-Swiss Cartel, concluded in 1929; and the so-called Four-Party Agreement, to which German, French, Swiss, and English groups were parties, entered into in 1932. Under these agreements a basis of cooperation between the more important producers of dyestuffs on the European continent had been laid. But in planning for the New Order of the industry, Farben had contemplated and recommended complete reorganization of the industry under its leadership.

Immediately after the French armistice in 1940, Farben conferred with representatives of the occupying authorities and other governmental agencies and deliberately delayed negotiations with the French to make them more receptive to negotiations. In the meantime, Farben's influence with the German occupation authorities was used to prevent the issuance of licenses and to stop the flow of raw materials which would have permitted the French factories to resume their normal pre-war production in keeping with the needs of the French economy. When the French plants were unable to resume production and their plight became sufficiently acute, they were forced to request the opening of negotiations. Farben indicated its willingness to confer. A conference was held on 21 November 1940 in Wiesbaden, at which representatives of Farben, the French industry, and the French and German Governments were in attendance. The meeting was under the official auspices of the Armistice Commission. Patently the French knew that they were forced to ascertain in the so-called negotiations what the future fate of the French dyestuffs industry, then at the mercy of the occupying Germans, might be. The meeting of 21 November 1940 was held in this atmosphere. The Defendants von Schnitzler, ter Meer, and Eugler were in

attendance as principal representatives of Farben. At the outset of the conference the French industrialists were frankly informed that the pre-war agreements between Farben and the French producers, which the French wished to use as a basis in the negotiations, must be considered as abrogated owing to the course of the war. Farben's historical claim to leadership, founded upon alleged wrongs traced back to World War I, was asserted as additional reason. In a most high-handed fashion the German representatives informed the French that the course of events during the preceding year had put matters in an entirely different light, and that there must be an adjustment to the new conditions. A memorandum read by von Schnitzler was presented to the French representatives, in which Farben demanded a controlling interest in the French dyestuffs industry. The German demands, set forth in the Farben memorandum, were vigorously supported by Ambassador Hammen, who pointed out the grave danger to the French dyestuffs industry if its future should be relegated to settlement by the peace treaty rather than through the medium of the "negotiations." It is clear that this conference was in no real sense the opening of negotiations between parties free to deal with each other without compulsion. It was rather the perfect setting for the issuance of the German ultimatum to the French dyestuffs industry, which was to be subjected to Farben's control.

The French industry was faced with an unenviable alternative: It could pursue the path of collaboration and surrender, recognizing the plight created by the situation in the light of Farben's demands, or, if it chose to resist, it entailed the risk of perhaps more severe treatment at the hands of the occupying authorities or of future governmental commissions appointed for handling the matter in connection with the negotiation of a treaty of peace. The French feared the exercise of the power of German occupation either to take

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over the plants completely or to dismantle and cart them away to Germany, in keeping with the pattern that had been established for military occupation by policies of the Third Reich. Notwithstanding these dread alternatives, the French were outspoken and vigorous in their resistance to the German demands. They were, however, astute enough not to break off negotiations completely.

On the following day, 22 November 1940, a second conference was held between representatives of Farben -- including von Schnitzler, ter Meer, Waibel and Kugler -- and representatives of the French group, with no government officials in attendance. Farben's demands for majority participation and absorption of the French dyestuffs industry were forcefully made at this conference. The French continued their protests. They refused to accept the proposals, but still without breaking off negotiations. In view of the situation, they stated that they would report the matter to the French Government for counsel and advice. They were advised by their government not to break off negotiations because such a step might have serious repercussions. Postponement and delay in the negotiations was in complete harmony with Farben's plan to force the French group into submission. Subsequently a French counter-proposal was presented to Farben representatives on 20 January 1941 at a meeting in Paris. This proposal represented the limits beyond which the French hoped not to be compelled to go. It was proposed that there be created a sales combine with a minority interest in Farben, the French holding the majority of the shares. This proposal was rejected by Farben. It did not satisfy the claim to leadership. It became increasingly clear, as the negotiations progressed, that this was a matter which would be settled entirely on Farben's terms. Farben's demand was for outright control of the French dyestuffs industry by 51% participation in the stock of a new corporation, Francolor,

which was to be formed to take over all of the assets of Kuhlmann, Saint-Clair, and Saint-Denis. Reluctantly the French accepted in principle the German demand for consolidation of French dyestuffs production in a new company with German participation, but they still protested against, and held out against, Farben's demand for the majority interest. The evidence establishes that in this regard they even received support from French governmental authorities. But the French industry's plight was too desperate.

Finally, on 10 March 1941, the Vichy Government gave its approval to the plan for the creation of the Franco-German Dyestuffs Company, Francolor, in which Farben was to be permitted to acquire controlling 51% stock interest. This decision of the Vichy Government was announced by the Defendant von Schnitzler to the French representatives at a conference on that date. After confirmation of the fact that the officials in charge of economic questions for the French Government supported the position taken by Farben, the French industry was forced to give in. Final agreement was reached at a subsequent conference on 12 March 1941, attended by representatives from the French and German industries involved and by representatives of Military Government in occupied France.

The Francolor Convention was formally executed on 18 November 1941. It was signed by the Defendants von Schnitzler and ter Meer on behalf of Farben. By this convention Farben permanently acquired the controlling interest in the French dyestuffs industry, and paid therefor in shares of I. G.'s stock, which could not be realized upon by the French as they were prohibited by terms of the convention from transferring the shares except among themselves. A decree entered by a French Court on 3 November 1945 declared the legal nullity of the transfer of the shares of stock in Francolor

to Farben. The transaction, although apparently legal in form, was annulled by virtue of the Inter-Allied Declaration of 5 January 1943 and French decrees based thereon.

The defendants have contended that the Francolor Agreement was the product of free negotiations and that it proved beneficial in practice to the French interests. We have already indicated that overwhelming proof establishes the pressure and coercion employed to obtain the consent of the French to the Francolor agreement. As consent was not freely given, it is of no legal significance that the agreement may have contained obligations on the part of Farben, the performance of which may have assisted in the rehabilitation of the French industries. Nor is the adequacy of consideration furnished for the French properties in the new corporation a valid defense. The essence of the offense is the use of the power resulting from the military occupation of France as the means of acquiring private property in utter disregard of the rights and wishes of the owner. We find the element of compulsion and coercion present in an aggravated degree in the Francolor transaction, and the violation of the Hague Regulations is clearly established.

(3) Rhone-Poulenc. There are two aspects of the charges of spoliation in the matter of Rhone-Poulenc. Prior to the war this firm was an important French producer of pharmaceuticals and related products. The first aspect relates to a licensing agreement entered into between Farben and Societe des Usines Chimiques Rhone-Poulenc, Paris (referred to as Rhone-Poulenc), and the second aspect relates to the so-called Theraplix Agreement. Under the first agreement substantial sums of money were paid to Farben during the war years on products covered by the licensing agreement and manufactured by the French firm. Under the second agreement Farben eventually acquired a majority interest in a joint sales company operated in the joint interest of I. G.

Bayer and Rhone-Poulenc. It is the contention of the Prosecution that both agreements constitute spoliation in that they were entered into unwillingly by the French as a result of pressure applied by Farben during the military occupation of France and as part of Farben's plan to subject the French pharmaceutical industry to its claim to leadership.

The main physical properties involved in the Rhone-Poulenc transactions were situated in the unoccupied zone of France. We need not concern ourselves with the strict nature of these agreements with reference to the acquisition of an interest in physical property. The agreements, in any event, involved the proceeds arising from the production of physical plants located in unoccupied territory. Thus the productive facilities so located were the source of the valuable interests involved in the contracts.

The location of the physical property and plants are of decisive importance in determining whether a case of spoliation might arise from the transactions involved. It is clear that the location of these properties was not in territory under the occupation or immediate control of the Wehrmacht. Farben was not in a position to enlist the Wehrmacht in seizure of the plants, or to assert pressure upon the French under threat of seizure or confiscation by the military. This is disclosed by a report of discussions held in Wiesbaden between the Defendant Mann as representative of Farben and officials of the Reich, wherein it is said: "Considerable difficulties will certainly arise from the fact that Rhone-Poulenc is situated in the unoccupied zone, as our chances of gaining control there are very slight. For this reason, Dr. Kolb suggests that we should endeavor to acquire direct influence both in the occupied and unoccupied zones by the exercise of control over the allocations of raw materials." Thus it appears that the pressure sought to be exercised in inducing the French to enter into the agreements

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involved in these transactions could not have been carried out by military seizure of physical properties. The pressure consisted of a possible threat to strangle the enterprise by exercising control over necessary raw materials. It further appears that Farben asserted a claim for indemnity for alleged infringements of Farben's patents, well knowing that the products were not protected under the French patent law at the time of the infringement. This conduct of Farben's seems to have been wholly unconnected with seizure or threats of seizure, expressed or implied, and while it may be subject to condemnation from a moral point of view, it falls far short of being proof of plunder either in its ordinary concept or as set forth in the Hague Regulations, either directly or by implication.

D. Russia:

There can be no doubt that the occupied territories of Russia were systematically plundered in consequence of the deliberate design and policy of the Nazi Government. Farben made far-reaching plans to participate in this plunder and spoliation, but the plans laid by Farben did not reach the stage of completion, and we are unable to say from the record before us that any individual defendant has been sufficiently connected with completed acts of plunder in Russia within the meaning of the Control Council Law. Farben, acting through the Defendant Ambros, did select and appoint experts to go to Russia to operate the Buna rubber plants expected to fall into German hands and urged its priority rights to exploit the Russian processes in the Reich, but these plans did not materialize in any completed act of spoliation established by the proof. The proof leaves no doubt that Farben did not desire to be left out of the exploitation in the East. With this in mind it participated in plans for the organization of the so-called Eastern corporations which were to have an important part in re-

privatizing Russian industry. Some of these companies came into existence, but the evidence of their activities is not sufficient to support any finding of guilt in connection therewith. Farben expected to acquire properties in Russia, but it is not shown that there was ever any such acquisition.

Special stress is placed by the Prosecution on the activities of the Continental Oil Company, which was founded prior to the invasion of Russia and in which Farben held a small stock interest. We are not satisfied that Farben ever directed or influenced the activities of the Continental Oil Company in any effective manner and cannot conclude that the mere membership of Krauch and Buetefisch on the Aufsichtsrat, which was not the managing board, in the absence of more complete proof of direct and active participation on their part, constitutes a sufficient degree of participation in the spoliative activities carried out by Continental Oil Company for a finding of guilt under Control Council Law No. 10.

Individual Responsibility:

We will now turn to the consideration of the individual responsibility of the defendants for the acts of spoliation which we have described in the above findings. It is appropriate here to mention that the corporate defendant, Farben, is not before the bar of this Tribunal and cannot be subjected to criminal penalties in these proceedings. We have used the term Farben as descriptive of the instrumentality of cohesion in the name of which the enumerated acts of spoliation were committed. But corporations act through individuals and, under the conception of personal individual guilt to which previous reference has been made, the Prosecution, to discharge the burden imposed upon it in this case, must establish by competent proof beyond a reasonable doubt that an individual defendant was either a participant in the illegal act or that, being aware thereof, he authorized or

approved it. Responsibility does not automatically attach to an act proved to be criminal merely by virtue of a defendant's membership in the Vorstand. Conversely, one may not utilize the corporate structure to achieve an immunity from criminal responsibility for illegal acts which he directs, counsels, aids, orders, or abets. But the evidence must establish action of the character we have indicated, with knowledge of the essential elements of the crime. In some instances individuals performing these acts are not before this Tribunal. In other instances, the record has large gaps as to where or when the policy was set. In some instances a policy is set without clear indication that essential factual elements required to make it criminal were disclosed. Difficulties of establishing such proof due to the destruction of records or other causes does not relieve the Prosecution of its burden in this respect.

One cannot condone the activities of Farben in the field of spoliation. If not actually marching with the Wehrmacht, Farben at least was not far behind. But translating the criminal responsibility to personal and individual criminal acts is another matter. With these preliminary observations our findings as to individual defendants are as follows:

Krauch:

The evidence does not establish that Krauch was criminally connected with Farben's spoliative acts in Poland. Owing to his position with the government he was not active in the administrative affairs of Farben after 1936, and he became further removed from the routine management with his appointment to the chairmanship of the Aufsichtsrat in 1940. There is no showing that he had any part in the establishment of the policy pursuant to which Farben acquired the properties in Poland.

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With reference to the alleged removal of machine installations from the Simon Pit in Lorraine, it appears that Krauch wrote a letter to the Military Economy and Armament Office requesting release of machine installations of the Simon Pit in Lorraine to be transferred to Gersthofen. The purpose of the recommendation was to expand electric power needed for the aluminum program, for which Krauch was responsible. This recommendation received Keitel's approval after consideration of the question of whether there was any violation of international law involved. Keitel's decision was communicated to Krauch in favor of the recommendation, and a subordinate of Krauch's was placed in charge of the work. But the evidence does not establish that the dismantling was actually carried out. Under these circumstances, Krauch must be found Not Guilty likewise on this aspect of Count Two.

In the case of spoliation in Norway it appears that Krauch acted as a technical advisor after the plans for expansion of light-metals production in Norway were under way. Prior to the initiation of the project he had a conference with the Defendant Buergin, in which he merely requested that Farben indicate the extent of its desired participation in the project. It does not appear that he took a prominent part in the negotiations, with reference either to the establishment of Nordisk-Lettmetall or the increase in the capital stock of Norsk-Hydro. His connection with the Norway project, in the capacity of a technical expert and advisor to Koppenberg on the type of installations to be established, does not, in our opinion, constitute sufficient participation in the exploitation of the resources of Norway to warrant a finding of guilt.

The evidence is also insufficient to convict Krauch insofar as alleged spoliation in Russia is concerned. It

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does not appear that any plans to which he may have been a party were carried out at all, nor that he was active in the plunder and spoliation of eastern occupied territory. His activity in connection with the Continental Oil Company is not shown in detail. It must have been on a limited basis, as he was only a member of the Aufsichtsrat, appointed to represent Farben's relatively small capital investment in that company. Under German law, membership on the Aufsichtsrat does not carry with it responsibility for the actual management of the affairs of the corporation.

We find also that the evidence establishes no connection between the charges of spoliation in France and the Defendant Krauch. Krauch is acquitted of all charges under Count Two of the Indictment.

Schmitz:

The Defendant Schmitz was chairman of the Vorstand, was primus inter pares of its members, and was the chief financial officer of Farben. His position necessitated that he be consulted on major matters of Farben policy in the interim between meetings of the Vorstand. It is certain that his responsibilities and his opportunities for knowledge went far beyond those of an ordinary Vorstand member. Notwithstanding the position which he held, however, the evidence does not conclusively connect him by any individual personal action on his part with the acts of spoliation in Poland, Alsace-Lorraine, or Russia. It is true that he presided at meetings of the Vorstand and frequently attended other Farben meetings, including those of the Commercial Committee, at which discussions were held, reports were made, action was planned and approved. But examination of the minutes and reports of the meetings fails to disclose anything incriminating as against Schmitz with regard to the mentioned transactions. The evidence, in general, is similar to that relied upon with reference to the other members of the Vorstand.

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In this respect the evidence is equally consistent with inferences that the acquisitions might have been effected in a legal manner. We are not convinced beyond reasonable doubt of the guilt of the Defendant Schmitz in connection with Farben's spoliative activities in Poland or Alsace-Lorraine.

In the matter of the Francolor acquisition the evidence has been presented on a different basis. Schmitz received minutes of the Wiesbaden meetings, and the evidence further establishes that he was continuously advised of the course of negotiations throughout the various conferences. The information coming to his attention in this manner was sufficient to apprise him of the pressure tactics being employed to force the French to consent to Farben's majority participation in the French dyestuffs industry. He was in a position to influence policy and effectively to alter the course of events. We, therefore, find that Schmitz bore a responsibility for, and knew of, Farben's program to take part in the spoliation of the French dyestuffs industry and, with this knowledge, expressly and impliedly authorized and approved it. Schmitz must be held Guilty on this aspect of Count Two of the Indictment.

In the case of spoliation in Norway, the evidence establishes that Schmitz, in his capacity as Chairman of the Vorstand, had special knowledge of the entire project. He received a letter from the Defendant Buergin recommending Farben's participation in the project, and such participation was later actually carried out. This could not have been done without his knowledge and approval. Possessing special knowledge of the project, he attended the meeting of the Vorstand on 5 February 1941, at which participation in the Nordisk-Lettmetall project was approved in principle. Reports of conferences with Reich authorities were made to Schmitz. He participated in at least one of these conferences

at which there was discussion regarding the steps to be taken in the acquisition of the Norsk-Hydro shares by the German group. He served as a member of the Styre, or governing board, of Norsk-Hydro, both prior to and subsequent to the increase in capitalization. We conclude that Schmitz was fully informed of the ramifications of the Nordisk-Lettmetall plan, and that his action in expressly or impliedly approving Farben's participation connects him criminally within the meaning of Control Council Law No. 10. Schmitz is found guilty under Count Two of the Indictment.

Von Schnitzler:

Von Schnitzler bears a major responsibility for Farben's spoliative activities in Poland and in France. He was the leading figure responsible for the formulation of Farben's general policy designed to achieve domination of the dye-stuffs and chemical industries of Europe. He took the initiative in developing plans for the acquisition of the Polish property. Only six days after the invasion of Poland he recommended that the Reich authorities be approached concerning Farben's operation of Polish dyestuffs factories expected soon to fall into German hands. He urged the appointment of Farben, or Farben nominees, as trustees for the Polish factories. He conducted or supervised all negotiations transitional to the final acquisition of Boruta, including transmitting personally the proposals for a long-term lease in favor of a Farben subsidiary to be created for this purpose. He personally signed the contract for the permanent acquisition of Boruta. He recommended that the Wola plant be closed down permanently, and recommended transferring equipment from both Wola and Winnica to Farben plants in Germany. In all these matters he aggressively incited the government to action. These facts are sufficient to demonstrate his guilt in regard to the Polish acquisitions.

The evidence does not establish von Schnitzler's

criminal complicity in the acquisition by Farben of properties in Norway, nor is it sufficient to warrant conviction in connection with the charges of spoliation in Alsace-Lorraine.

In the Francolor acquisition von Schnitzler also played the leading role. He was Farben's chief representative at the meeting with representatives of the French and German Governments and representatives of the French dyestuffs industry. At these meetings methods of intimidation were used as part of a plan to force the French to meet Farben's demands. Von Schnitzler was fully aware of the fact that competent governmental authorities in occupied France had been requested to withhold raw material from the French dyestuffs factories, to prevent shipment of goods into the unoccupied zone, and to make things generally difficult for the French in order that they would be willing to negotiate. Von Schnitzler was a party to the plan to delay the opening of negotiations with the purpose of making the plight of the French more desperate in order that they would be receptive to Farben's demands. When negotiations were finally opened at Wiesbaden he was fully aware of the atmosphere of intimidation created by holding the meeting under the auspices of the Armistice Commission. Thus, von Schnitzler and Kugler, in a letter to Farben representative Kramer, in Paris, said:

"It is quite obvious that our tactical position towards the French is by far stronger if the first fundamental discussion takes place in Germany and, more particularly, at the site of the Armistice Delegation; and if our program, as outlined, will be presented, so to say, from official quarters."

He personally served the ultimatum containing Farben's demands, described by the French as a "dictate," on the representatives of the French dyestuffs industry. He subsequently supervised and was apprised of the conference and negotiations conducted by subordinate Farben employees. He personally signed the Francolor Convention, whereby the

French dyestuffs industry, in opposition to its wishes, was forced to cede a 51% interest in the French industry to Farben. It is clear from this recital of the evidence that von Schnitzler was a party to the illegal acquisition by Farben of permanent property interests in France during belligerent occupation. This constitutes violation of the rights of private property protected by provisions of the Hague Regulations. Von Schnitzler is found guilty under count Two of the Indictment.

Gajewski:

The Defendant Gajewski was not personally active in any of the specific acts of spoliation charged in the Indictment. The Prosecution's case against him under this count, therefore, depends entirely upon Gajewski's alleged participation in Farben's plunder and spoliation activities predicated upon his regular presence at meetings of the Vorstand, TEA, or other committee groups at which the various acquisitions in occupied countries came up for discussion, planning, information, or approval. It is contended that he knew of and approved such acquisitions constituting spoliative transactions. As we have heretofore indicated, a defendant can be held guilty only if the evidence clearly establishes some positive conduct on his part which constitutes ordering, approving, authorizing, or joining in the execution of a policy or act which is criminal in character. It is essential, in keeping with the concept of personal and individual criminal responsibility, that, when seeking to attach criminality to acts not personally carried out, the action of a corporate officer in authorizing illegal action be done with adequate knowledge of those essential elements of the authorized act which give it its criminal character. With regard to transactions apparently legal in form, this means positive knowledge that the owner is being deprived of his property against his will during military occupancy. We have carefully examined

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the minutes of the Vorstand and other Farben groups relied upon by the Prosecution to establish Gajewski's criminal complicity in the crimes charged under Count Two, and we cannot find that his action in approving these transactions constitutes sufficient conduct to warrant a finding of Guilty. The minutes of the Farben groups to which reference has been made are abbreviated in form and, in most instances, merely indicate that a report was made by the responsible Farben official charged with the execution of the project. The extent of the report is not shown. The reports made and distributed and the minutes reflecting discussion and action do not contain sufficient evidence from which it may be conclusively inferred that illegal methods would be used in the negotiations. Nor does it appear from the reports that the transactions were to be concluded without the full consent of the owners. With reference to acquisitions in Poland and Alsace-Lorraine which are connected with unlawful confiscations, the evidence of required knowledge of the facts is not found in the record. One may, in reviewing all this evidence, strongly suspect that much more of the details of the negotiations were actually reported and may have fully apprised Vorstand members that property was being illegally acquired in occupied territories, but suspicion alone does not amount to the requisite proof, as the minutes themselves would be equally consistent with action that would not import criminality. We cannot conclude that Gajewski's conduct in expressly or impliedly approving action reported at Vorstand or other meetings where the property acquisitions here considered were reported upon establishes his guilt under Count Two beyond a reasonable doubt.

It does not appear from the evidence that Gajewski's activity in the Kodak-Pathe matter resulted in any completed act of spoliation. His action here may have been laying the foundation for such an act, but it was not consummated.

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He is acquitted of the charges under this Count, as we do not consider that it is proved that he took a part in any criminal action charged in Count Two.

Hoerlein:

There is no substantial evidence connecting the Defendant Hoerlein with any of the acts of spoliation charged in the Indictment, other than his activity as a member of the Vorstand and the Technical Committee. In this respect what we have said in general terms in our consideration of the evidence relied upon in the case of the Defendant Gajewski is applicable to this defendant. His principal connection under the evidence was in the Rhone-Poulenc transaction, in which it does appear that he had a degree of participation and knowledge which went beyond that of an ordinary Vorstand member. Under the view which we have expressed in our general findings of the facts, the Rhone-Poulenc transaction is not considered by the Tribunal as involving a war crime within its jurisdiction, regardless of how much the transaction might be condemned based on other considerations. We cannot impute criminal guilt to the Defendant Hoerlein from his membership in the Vorstand, and he is acquitted of all of the charges under Count Two of the Indictment.

Von Knieriem:

Von Knieriem was not only a member of Farben's Vorstand, he was also the first lawyer in Farben. But the evidence does not establish that he ever acted on any of the matters charged as spoliation in Count Two. Nowhere does it appear that he was consulted for legal advice in connection with these transactions or that he counselled or aided in their consummation. The one instance of evidence establishing that von Knieriem considered legal problems in occupied territories dealt with corporate problems of an entirely different character from the immediate acquisitions of property with which we are here concerned under the evidence. It is

not established that von Knieriem knew of the methods being pursued by Farben in acquiring property against the will and consent of the owners in occupied territories, or that he was in any way a party to the acquisitions in Poland and Alsace-Lorraine. His action in a legal capacity in the establishment of the Eastern Corporations for possible operations in Russia is not connected with any completed act of spoliation. Von Knieriem is found Not Guilty under Count Two of the Indictment.

Ter Meer:

We find that the proof establishes the guilt of the Defendant Ter Meer under Count Two of the Indictment beyond reasonable doubt. He was prominently connected with the activities of Farben in the acquisition of the Polish property and in the Francolor acquisition. The evidence establishes that Ter Meer acted for Farben in the selection of the personnel to operate the plants. There can be no doubt that the initiative in acquiring the Polish property came from Farben, and that Ter Meer, as Chairman of the Technical Committee, was fully advised in regard to Farben's contemplated action and the course of the negotiations. He issued instructions in connection with the negotiations. He acted with the Defendant von Schnitzler in applying for the license to purchase the Boruta plant. We have found no criminality in the Winnica stock acquisition, but the fact that this contract was signed by the Defendant Ter Meer is indicative of the extent to which he was apprised of, and connected with, the course of action of Farben in Poland. It is clear that Ter Meer took a consenting part in Farben's acts of spoliation in Poland, and participated with von Schnitzler throughout this matter.

Ter Meer took a prominent part in the planning for contemplated spoliation in Soviet Russia, but, as we have heretofore indicated, this did not result in any completed spoliative act. Nor is the evidence sufficient in any way

to connect the Defendant Ter Meer with spoliation in the case of Norsk-Hydro.

Ter Meer was a guilty participant in Farben's acquisition of the confiscated Mulhouse plant, as he knew of and tacitly approved the acquisition. He approved the Rhone-Poulenc license agreement, but, as we have indicated, criminality cannot be predicated on that transaction.

Ter Meer was a leading participant in the Francolor negotiations. He attended the important Wiesbaden meetings at which the Farben demands were served on the French, and at which pressure was used to obtain the consent of the French. He received reports from Farben representatives that were sufficiently in detail fully to apprise him of the course of the negotiations and the tactics being employed. He signed the Francolor Convention. Ter Meer had intimate personal knowledge of the plight of the French industry and was fully aware of Farben's action in gaining the support of the Nazi authorities in making it difficult for the French industry to resume production. We cannot accept the defense that this was a normal business transaction between parties free to negotiate, regardless of mutual clauses contained in the Francolor Convention. Ter Meer's participation in this entire transaction was at the important level of policy-making. He was dictating the terms and acting, along with von Schnitzler, as the responsible Vorstand member handling the matter. He is criminally connected with the Francolor transaction.

We find the Defendant Ter Meer guilty under Count Two of the Indictment.

Schneider, Kuehne and Lautenschlaeger:

The evidence to support the charges of participation in the spoliation alleged in Count Two of the Indictment is substantially the same in the individual cases of the Defendants Schneider, Kuehne, and Lautenschlaeger. It is the contention

of the Prosecution that these defendants are responsible for, knew of, and approved the program of Farben to acquire, with the aid of force and compulsion, property in occupied territories. It is contended that these defendants, as members of the Vorstand, attended Vorstand meetings, meetings of the Farben committees, and other policy-making groups, at which such action was authorized or approved. It is further contended that they received reports of a character to advise them of the contemplated action. We have carefully examined this evidence. What we have said with reference to the individual responsibility of the Defendant Gajewski is applicable here. We do not consider that the evidence has sufficiently established the degree of affirmative action with knowledge of the details importing criminality to warrant a finding of guilt in the case of these three defendants. Each is, therefore, acquitted of the charges under Count Two of the Indictment.

Ambros:

The Defendant Ambros was a member of Farben's Vorstand during the entire period of World War II. It is the contention of the Prosecution that, in that capacity and as a member of the TEA, Ambros participated in planning the spoliation and plunder, and that he affirmatively approved and ratified all of the spoliative acts committed by Farben. The proof as to the action of Ambros is not convincing, even though he was frequently present at the meetings referred to. We cannot find that the evidence connects him with the illegal acquisition of property by Farben. It is true that he was pressing the matter of the operation of the Russian Buna plants by Farben experts and demanded that Farben be given exclusive rights with regard to the Russian plants and processes. However, as we have heretofore indicated, the evidence does not establish any completed act of spoliation in Russia in which these defendants were participants.

The contemplated spoliation was prevented by the defeat of the German Army in Russia. He was willing to exploit and acquire the Russian plants for Farben, but these plans were not realized. We do not consider that his activities in furthering production in the Francoeur plants, following their acquisition by Farben, warrant a finding of guilt.

Ambros is acquitted under Count Two of the Indictment.

Buergin:

The evidence establishes that the Defendant Buergin was specifically informed concerning plans to have the Boruta plant in Poland taken over by a German corporation organized for that purpose, but he was not personally a participant in the acquisition by Farben of this plant. It is not clearly established that his trip to Poland was directly connected with any of the acts of Farben in acquiring Polish property. The evidence of his report to the Vorstand on the economic conditions and technical efficiency of the plants is not directly linked with subsequent action by Farben. We likewise find that the evidence is insufficient for a finding of guilty against Buergin on the particulars of the Indictment charging spoliation in Russia, France, and Alsace-Lorraine.

In the case of Norway, however, Buergin bears special responsibility. He initiated the recommendation for Farben's participation in the aluminum project in Norway and has admitted that permanent participation and acquisition of interests in the Norwegian production of light metals was contemplated. Buergin wrote to Schmitz and Ter Meer recommending participation on a large scale in the plan to exploit the Norwegian resources in the interest of light metals production for the Luftwaffe. The recited evidence establishes his guilt under Count Two. But it does not appear that he was in any way connected with the activities whereby the French shareholders were deprived of their majority interest in Norsk-Hydro. For his participation in the first aspect of

spoliation in Norway we find that he is Guilty under Count Two of the Indictment.

Buete-fisch:

The Defendant Buete-fisch was a member of Farben's Vorstand, and as such is charged in the Indictment with participation in spoliation of the German-occupied territories of Poland, France, Norway, and Soviet Russia. The evidence to support these allegations has been carefully examined. We deem it insufficient to establish that the Defendant Buete-fisch was directly connected with these spoliative activities, or that he was personally involved therein, within the meaning of Control Council Law No. 10.

Special stress is placed by the Prosecution on Buete-fisch's connection with the Continental Oil Company which, according to findings of the IMT, was engaged in spoliation activities in occupied territories in the East. Buete-fisch was a member of the Aufsichtsrat of Continental Oil Company, but it does not appear from the evidence that he was particularly active in the management of the concern. Nor does it appear that he ordered, authorized, or directed the activities of Continental Oil Company which amounted to spoliation. The evidence does not establish beyond reasonable doubt that Buete-fisch is guilty under Count Two by virtue of his activities in the Continental Oil Company, and he is, accordingly, acquitted of all the charges under this count.

Haefliger:

It has been proved that Haefliger, a member of the Vorstand, knew of Farben's proposal that Farben be appointed as trustee for the Polish plants and that, at the suggestion of von Schnitzler, he approached the Ministry of Economics in a preliminary conference on the subject of the Polish plants. The conference was limited, however, to a discussion of the appointment of experts necessary for commercial and technical operations, and the preliminary reaction of the

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Ministry was unfavorable. Haeffliger is not connected by the evidence with any subsequent action of Farben's for acquisition of the Polish plants. Haeffliger has testified that he did not know at the time that the plan was to acquire these plants permanently for Farben. We cannot say that it has been proved beyond reasonable doubt that Haeffliger was a party to the spoliation and plunder by Farben of the Polish factories. His subsequent action as a member of the Vorstand must be considered on the same basis as the evidence with reference to the other defendants, and would not warrant a finding of guilt.

Haeffliger was, however, criminally connected with the plans for the spoliation of Norway. Haeffliger reported to the Vorstand on the participation of Farben in the proposed exploitation of the Norwegian resources in the interest of the German war economy. He attended meetings at the Reich Air Ministry at which details of the project and participation therein were planned and discussed. He was fully aware of the nature of the project as an armament expansion program. He knew that the plan contemplated, as a subsidiary detail, the acquisition of the majority shares of the French shareholders. We are convinced beyond reasonable doubt that his activity in relation to this whole matter was on such a comprehensive basis that he knew that Norsk-Hydro was being forced to enter the project involving use of its facilities during military occupancy in the interest of enemy armament against the will and consent of the owners, and that the French shareholders were not voluntarily parting with their majority interest in Norsk-Hydro. He approved and participated in this course of action.

For his connection with, and participation in the Norwegian enterprise, Haeffliger is Guilty under Count Two of the Indictment.

Ilgner:

The Defendant Ilgner was an active participant in the case of spoliation of Norway and must be held Guilty under Count Two of the Indictment. He was the leading participant in arranging and supervising the various negotiations leading to the Norsk-Hydro agreement, whereby the French shareholders were deprived of their majority interest in favor of a German majority including Farben. He was fully informed concerning the scope of the planned exploitation of the Norwegian economy in the light-metals program for the Luftwaffe and joined energetically in the plan. The plan contemplated permanent acquisition by Farben of a substantial interest in the light-metals field in Norway. He was thus a participant and party to the plan to force the use of Norsk-Hydro's facilities in the expansion program for German needs, without regard to the needs of Norwegian economy. He was similarly a party to the scheme to utilize the opportunity to establish a German majority in the share ownership of Norsk-Hydro. Ilgner admits that the French were not represented at the meeting of 30 June 1941 at which Norsk-Hydro's participation in Nordisk-Lettmetall and the increase in Norsk-Hydro's capitalization was voted. The evidence establishes that Ilgner took the position that the presence of all the shareholders was not essential for the safeguarding of their rights. Although much conflicting evidence has been introduced on this point, we are convinced that the French shareholders in Norsk-Hydro were not fully advised of the full scope of the Nordisk-Lettmetall project; they never intended to lose the majority interest in Norsk-Hydro, and went along after the full plan developed solely because they feared confiscation of their plants in Norway during the military occupancy. Ilgner himself stated in an affidavit:

"I do not know in detail the motives which guided the French bank when it agreed to the increase of the capital stock of

Norsk-Hydro, by which procedure the French majority interest was reduced to a minority interest. I should say they chose this alternative as the lesser evil, in the last analysis, I.G. Farben participated and advised the bank to agree....."

In our view the evidence establishes beyond reasonable doubt the Defendant Ilgner's criminal complicity in the spoliation of Norsk-Hydro, and the Defendant Ilgner is Guilty under Count Two.

We do not find that the evidence establishes beyond reasonable doubt any connection of the Defendant Ilgner with the other particulars alleging acts of spoliation under Count Two.

Jaehne:

It is the contention of the Prosecution that Jaehne, as leader of Farben's Offenbach plant, participated in the acquisition of the dismantled equipment which was shipped from Wola to that plant. The evidence on this point is conflicting. Subordinate employees testified that Jaehne was not, in fact, informed of the purchase. We have concluded that there is doubt concerning his knowledge of this matter and, as this is the only connection of the Defendant Jaehne with Farben's spoliative activities in Poland, he is acquitted on this particular of Count Two.

But the evidence does establish Jaehne's participation in certain of the negotiations with governmental authorities prior to the acquisition by Farben of the confiscated Alsace-Lorraine oxygen and acetylene plants, in which he obtained agreement in accordance with Farben's wishes. Jaehne was fully informed of, and took a consenting part in, Farben's acts of spoliation in the acquisition of these plants. That it was Farben's purpose from the outset to acquire the plants permanently is fully established by the evidence. The disruption of industry in Alsace-Lorraine may have made it necessary for the occupying authorities to reactivate the plants, but this defense is not available when it is shown

clearly that Farben's purpose was the permanent acquisition of the plants and not their mere reactivation in the interest of the local economy. As the matter was stated by Mayer-Wegelin, an employee of Farben's who handled the major part of the negotiations with the Nazi governmental authorities:

"No negotiations were conducted with these former owners, nor were their interests considered by us. We rather negotiated with the sequestrators appointed by the German Reich. We were indeed aware that the purchase of the real property and of the plants as far as they still existed might be attacked under international agreement. We, therefore, recognized the possibility that at a later time we might have to return the real property.....In other words; in order to maintain our oxygen position we reached the result that we should assume the risk of having to return the property."

Jaehne's connection with this matter was such that he must be held criminally responsible under this aspect of Count Two of the Indictment.

There is not sufficient evidence to warrant his conviction under any of the other particulars set forth in Count Two.

Mann:

Mann's activities in relation to the spoliation of Norway and Russia have not been proven in sufficient detail to warrant a finding of criminal guilt on those particulars of Count Two. He was not active in the Francolor matter, though the evidence does indicate that Farben's plans to acquire a majority interest in the French dyestuffs industry came to his attention during the course of his preliminary negotiations with the Nazi authorities in France prior to the Rhone-Poulenc transaction. It appears that his connection with the Francolor matter was only incidental to his major interest and activity in the Rhone-Poulenc matter. His other knowledge and his activity as a member of Farben's Commercial Committee and as a member of the Vorstand are likewise insufficient for a finding of guilt. What we have said in the case of the Defendant Gajewski in this regard is equally applicable to the case of Mann. As the Rhone-Poulenc

transactions, in which he was the leading actor, do not constitute a crime within the jurisdiction of this Tribunal, and as the evidence does not otherwise connect him with other acts declared to be criminal, Mann is acquitted under Count Two of the Indictment.

Oster:

The actions of Oster, with reference to the charges under this count as to Poland, Alsace-Lorraine, and France, cannot be differentiated from those of other members of the Vorstand, who, for lack of sufficient knowledge of the complete facts, cannot be considered as participating in ordering or authorizing a course of action known to be criminal. The Prosecution, however, charges Oster with special responsibility for his activities in connection with the case of spoliation in Norway. It appears that Oster served as a member of the Aufsichtsrat of Norsk-Hydro after the Nordisk-Lettmetall project was inaugurated, and that from meetings of the Vorstand and other reports which he received he was informed of the general nature and purpose of the program for the expansion of light metals in Norway by the use of the facilities of Norsk-Hydro in the interest of production for the Luftwaffe. The evidence does not bear out the theory of the Prosecution that the Defendant Oster was personally a party to putting pressure on Norsk-Hydro, or even that he dealt with its officials with duplicity. In fact, Dr. Ericksen has given a testimonial of Oster's friendly attitude in the entire matter. However, the proof establishes that Oster knew that the project was being carried out against the wishes of Norsk-Hydro, and that Farben was acquiring permanent interests in properties of Norsk-Hydro through the Nordisk-Lettmetall project and as a result of the compulsion of the military occupancy. With his knowledge he approved Farben's participation in the project. He is guilty, therefore, under Count Two of the Indictment.

Wurster:

Immediately after the collapse of Poland, Wurster made a trip to Poland accompanied by an official of the Reich Office for Economic Development, for the purpose of inspecting Polish chemical plants. He submitted a memorandum report in a letter to the Defendant Buerger, analyzing conclusions reached during the inspection trip. The report expressed conclusions as to the future value of these plants to the German economy and for military purposes, recommending in some instances, continued operation and in other cases dismantling of certain plant facilities. But it is not established that this report was the basis of official action taken either by the Reich authorities in the East or by Farben with respect to these properties. We are unable to say that this action, standing alone, supports a finding of guilty under Count Two in regard to the Polish properties.

With reference to Alsace-Lorraine, the evidence does establish that Wurster had conferences with various persons concerning the utilization of plant facilities in Alsace-Lorraine. Some of these plants were closed down and abandoned. The evidence is by no means clear that any activities of Wurster resulted in effecting the transfer of property to I. G. control or ownership. The evidence fails to prove that Wurster himself ever dealt with any of the authorities to promote Farben's acquisition of these plants. Here a reasonable doubt enters, and we cannot find that Wurster's approach to the authorities was with a view to purchasing these plants for Farben.

We find that Wurster is not substantially involved in any of the acts charged in this Count.

The Defendant Wurster is, therefore, Not Guilty under Count Two of the Indictment.

Duerrfeld, Gattineau and von der Heyde:

Four of the defendants--namely, Duerrfeld, Gattineau, von der Heyde and Kugler--were not members of the Vorstand of I.G. Farben.

The evidence does not establish any connection between the activities of the Defendant Duerrfeld and the offenses against property charged in this Count. We, therefore, find that the Defendant Duerrfeld is Not Guilty under Count Two of the Indictment.

The Defendant Gattineau is likewise Not Guilty. The acts of alleged spoliation with which he was intimately connected all related to his activities in the Austrian and Czechoslovakian acquisitions which, under the ruling of the Tribunal above referred to, were held not to constitute crimes against humanity or war crimes within the jurisdiction of this Tribunal. Gattineau's mere presence at Commercial Committee meetings, at which reports were made concerning the Rhone-Poulenc negotiations, and his other general activities in the commercial field as an employee of Farben's, are insufficient participation upon which to predicate a finding that he is guilty under the spoliation count.

In its final brief the Prosecution concedes that the evidence has not established beyond a reasonable doubt the guilt of the Defendant von der Heyde under the charges in Count Two. We fail to find any substantial evidence connecting von der Heyde with the charges. He is acquitted under Count Two.

Kugler:

Although not a member of Farben's Vorstand, Kugler was a member of the Commercial Committee and was an active Farben leader in the dyestuffs field. We find that the proof does not establish beyond a reasonable doubt sufficient connection of the acts of the Defendant Kugler with Farben's acts of

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spoliation in Poland and Alsace-Lorraine to justify a finding of guilt based on those particulars of the Indictment. But Kugler was an active participant, as one of the representatives of Farben, in the negotiations and other steps leading to the Francolor agreement. It is true that he did not act independently in this matter and was under the direction of two Vorstand members, von Schnitzler and ter Meer, both of whom had authority and policy-making functions far superior to those of Kugler. He participated in the preliminary discussions with the Armistice Commission and in the meetings at Wiesbaden in November 1940, at which the Farben demands were served on the French dyestuffs representatives and pressure was exerted to force the French to agree to Farben's desire for a 51 1/2 interest in the French industry. It was Kugler who arranged with the authorities during the military occupation that pressure should be applied, and who obtained support for the suggestion "that no alleviations are offered to production which might weaken the opponent's will to negotiate." Kugler was fully advised of all of the steps taken and knew that the Francolor agreement was being imposed on the French against their will and without their free consent. He participated in the meeting at which the Francolor agreement was reached and subsequently served on one of the important committees of Francolor. While he was not the dominant figure initiating the policies leading to the unlawful acquisitions, he was criminally connected with the execution of the entire enterprise and must be held guilty under Count Two.

COUNT THREE

Count Three charges the defendants, individually, collectively, and acting through the instrumentality of Farben, with the commission of war crimes and crimes against humanity as defined by Article II of Control Council Law No. 10. It is alleged that they participated in the enslavement and deportation to slave labor of the civilian population of territory under the belligerent occupation or otherwise controlled by Germany; the enslavement of concentration-camp inmates, including Germans; and the use of prisoners of war in war operations and work having a direct relation to war operations. It is further alleged that enslaved persons were mistreated, terrorized, tortured, and murdered.

The general charge is followed by a statement of particulars, consisting of twenty-two numbered paragraphs. From these it appears that, to sustain this Count of the Indictment, the Prosecution relies upon four groups of alleged facts characterized as follows: (a) the role of Farben in the slave-labor program of the Third Reich; (b) the use of poison gas, supplied by Farben, in the extermination of inmates of concentration camps; (c) the supplying of Farben drugs for criminal medical experimentation upon enslaved persons, and (d) the unlawful and inhumane practices of the defendants in connection with Farben's plant at Auschwitz. These aspects of the case will be given due consideration in the course of this sub-division of the Judgment, but not in the order stated.

Poison Gas:

The indictment charges in Paragraph 131 that, "Poison gases... manufactured by Farben and supplied by Farben to officials of the SS were used in...the extermination of enslaved persons in concentration camps throughout Europe." In substantiation of this charge the Prosecution established that Cyclon-B gas was supplied to concentration camps in

large quantities for extermination purposes by DEUTSCHE GESELLSCHAFT FÜR SCHÄDLINGSBEKÄMPFUNG, commonly called DEGESCH, in which Farben had a 42.5% interest, and that said firm had an administrative committee or supervisory board consisting of 11 members, including the Defendants Mann, Hoerlein, and Wurster. The connection of the defendants with these transactions will, therefore, bear more careful scrutiny.

Cyolon-B, which had wide use as an insecticide long before the war, was invented by Dr. Walter Heerdt, who appeared before the Tribunal as a witness. The proprietary rights to Cyolon-B belonged to the firm of DEUTSCHE GOLD-UND SILBERSCHNEIDANSTALT, commonly called DEGUSSA, but actual manufacture was performed for it by two independent concerns. DEGUSSA was a competitor of Farben's and of the TH. GOLDSCHMIDT A.G. in the production and sale of insecticides. DEGUSSA had, for a long time, sold Cyolon-B through the instrumentality of DEGESCH, which it dominated and controlled. DEGUSSA, Goldschmidt and Farben, therefore, entered into an arrangement with DEGESCH whereby it became the sales outlet for insecticides and related products for all three concerns. As already pointed out, Farben took a 42.5% interest in DEGESCH. The remaining shares in the concern were divided, 42.5% to DEGUSSA and 15% to Goldschmidt. The management of DEGESCH was the direct responsibility of Dr. Gerhard Peters, but the firm had an executive board of 11 members -- 5 from the Farben Vorstand (the Defendants Mann, Hoerlein, and Wurster, together with Brueggemann, who was severed from this trial, and Weber-Andreas, deceased), 4 from DEGUSSA, 1 from Goldschmidt, and Dr. Heerdt, who was connected with a DEGESCH subsidiary. The Defendant Mann was the chairman of the board. DEGESCH had originally been organized as an outlet for DEGUSSA products, exclusively. Even after Farben and Goldschmidt acquired participating interests in the firm it continued to maintain its headquarters in the DEGUSSA

building. Its office staff was recruited from and compensated on the same basis as DEGUSSA personnel.

The evidence does not warrant the conclusion that the executive board or the Defendants Mann, Hoerlein, or Wurster, as members thereof, had any persuasive influence on the management policies of DEGESCH or any significant knowledge as to the uses to which its production was being put. Meetings of the board were infrequent and the reports submitted to the members thereof were not very enlightening. It seems fair to conclude that the board's principal function was to recognize the financial investments of the participating stockholders and that operational policies were largely left to Dr. Peters, subject only to the general supervision of DEGUSSA's executives with whom he was in close contact.

The proof is quite convincing that large quantities of Cyclon-B were supplied to the SS by DEGESCH and that it was used in the mass extermination of inmates of concentration camps, including Auschwitz. But neither the volume of production nor the fact that large shipments were destined to concentration camps would alone be sufficient to lead us to conclude that those who knew of such facts must also have had knowledge of the criminal purposes to which this substance was being put. Any such conclusion is refuted by the well-known need for insecticides wherever large numbers of displaced persons, brought in from widely scattered regions, are confined in congested quarters lacking adequate sanitary facilities.

The testimony of Dr. Peters is highly important on the issue of the defendants' guilty knowledge. He related the details of a conference that he had in the summer of 1943 with one Gerstein, introduced by Professor Mrugowsky, director of the health institute of the notorious Waffen SS. After swearing Dr. Peters to absolute secrecy under penalty of death, Gerstein revealed the Nazi extermination program

which he said emanated from Hitler through Himmler. There followed a long conference concerning the efficacy of different methods of extermination, including the use of Cyclon-B for that purpose. Dr. Peters stated emphatically that he was thereafter extremely careful to observe the admonition to treat this conference as Top Secret, and he negatived the assumption that any of the defendants had any knowledge whatever that an improper use was being made of Cyclon-B.

We are of the opinion that the evidence falls short of establishing the guilt of any of the defendants on this aspect of Count Three.

Medical Experiments:

It is further charged under Count Three (Sub-section B of Paragraph 131) of the Indictment that "...various deadly pharmaceuticals manufactured by Farben and supplied by Farben to officials of the SS were used in experimentations upon... enslaved persons in concentration camps throughout Europe. Experiments on human beings (including concentration-camp inmates) without their consent were conducted by Farben to determine the effect of...vaccines and related products."

The Prosecution asserts, and it asks us to find, that the Defendants Lautenschlaeger, Mann, and Hoerlein, each, participated in supplying Farben pharmaceuticals and vaccines to the SS for the purpose of having them tested, knowing that the tests would be conducted by medical experimentations upon concentration-camp inmates without their consent; that each of said defendants took the initiative in getting Farben products tested by the SS through the means of criminal medical experiments; and that these criminal medical experiments resulted in bodily harm and death to a number of persons.

We may say, without further elaboration, that the evidence has convinced us that healthy inmates of concentration

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camps were deliberately infected with typhus against their will and that drugs produced by Farben, which were thought to have curative value in combating said disease, were administered to such persons by way of medical experimentation, as a result of which many of such persons died. That such practices are criminal and a violation of international law was conclusively determined by United States Military Tribunal I in the case of the United States vs. Brandt, et al. Our problem is, therefore, that of saying whether the evidence establishes beyond a reasonable doubt that the defendants, or any of them, "were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, (or) were members of organizations or groups, including Farben, which were connected with, the commission of said crimes," as charged in the indictment.

We deduce from the evidence that typhus or spotted fever is communicated to a human being by the bite of a louse. There is always danger of an epidemic of this disease where a large number of persons are thrown together amid unsanitary conditions, such as are frequently found on army fronts and in concentration camps. Typhus first made its appearance on the eastern front during the war, and the responsible officials of Germany were very apprehensive that it would spread to the civilian population. Desperate efforts were made, therefore, to find a remedy that would cure the disease or at least immunize against it. At the time this problem became acute, the generally recognized method of producing an efficient typhus immunization vaccine was the so-called Weigl process. This vaccine was developed from the intestines of infected lice, and a skilled scientist could only produce in one day enough of it to treat ten persons. There was, consequently, an urgent need for finding a way to greatly expand the production of this substance.

For several years previously Farben's Behring-Werke, among others, had been experimenting with the possibility of breeding typhus bacilli in chicken eggs, and a process based on that idea had been developed, whereby a trained technician could in a single day produce enough vaccine to treat 15,000 persons. This vaccine lacked scientific verification and acceptance by the medical profession, however, and Farben was extremely anxious to win this recognition for its product. To that end it participated in conferences with governmental health agencies and urged that its product be tested and accepted.

Through the years Farben had developed a more or less routine method for testing the efficacy of its pharmaceutical discoveries after these had passed the research stage. If it was believed that a new drug had probable medicinal value and that it could be used without harmful results, samples were sent to recognized physicians for testing on patients afflicted with the particular disease with which the remedy was designed to cope. These physicians, in turn, submitted detailed reports covering their experiences with the drug, after which Farben scientists assembled and studied this data and concluded therefrom whether the firm would sponsor the product and place it on the market. The Prosecution does not deny that this was the procedure generally followed by Farben. It asserts, however, that the circumstances surrounding the testing of Farben's vaccine, as well as with respect to its acridine, rutenol, and methylene blue, in combating typhus discloses that the Defendants Hoerlein, Lautenschlaeger, and Mann, in particular, well knew that concentration-camp inmates were being criminally infected with the typhus virus by SS doctors for the deliberate purpose of conducting experiments with these Farben products.

The facts and circumstances principally relied upon by

the Prosecution to establish guilty knowledge on the part of said defendants may be summarized as follows: (1) criminal experiments were admittedly conducted by SS physicians on concentration-camp inmates; (2) said experiments were performed for the specific purpose of testing Farben products; (3) some of said experiments were conducted by physicians to whom Farben had entrusted the responsibility of testing the efficacy of its drugs; (4) the reports made by said physicians were calculated to indicate that illegal experiments had been conducted; and (5) drugs were shipped by Farben directly to concentration camps in such quantities as to indicate that these were to be used for illegitimate purposes.

Without going into detail to justify a negative factual conclusion, we may say that the evidence falls short of establishing the guilt of said defendants on this issue beyond a reasonable doubt. The inference that the defendants connived with SS doctors in their criminal practices is dispelled by the fact that Farben discontinued forwarding drugs to these physicians as soon as their improper conduct was suspected. We find nothing culpable in the circumstances under which quantities of vaccines were shipped by Farben to concentration camps, since it was reasonable to suppose that there was a legitimate need for such drugs in these institutions. The question as to whether the reports submitted to Farben by its testing physicians disclosed that illegal uses were being made of such drugs revolves around a controversy as to the proper translation of the German word "Versuch" found in such reports and in the documents pertaining thereto. The Prosecution says that "Versuch" means "experiment" and that the use of this word in said reports was notice to the defendants that testing physicians were indulging in unlawful practices with such drugs. The

defendants contend, however, that "Versuch", as used in the context, means "test" and that the testing of new drugs on sick persons under the reasonable precautions that Farben exercised was not only permissible but proper. Applying the rule that where from credible evidence two reasonable inferences may be drawn, one of guilt and the other of innocence, the latter must prevail, we must conclude that the Prosecution has failed to establish that part of the charge here under consideration.

Farben and the Slave-Labor Program:

The Prosecution does not contend that Farben instituted a slave-labor program of its own. On the contrary, it is the theory of the Prosecution that the defendants, through the instrumentality of Farben and otherwise, embraced, adopted, and executed the forced-labor policies of the Third Reich, thereby becoming accessories to and taking a consenting part in the commission of war crimes and crimes against humanity in violation of Article II of Control Council Law No. 10. This, therefore, calls for a brief resume of the slave-labor program of the Reich government during the war years. For this purpose we may rely upon the Judgment of the DMT, since Article X of Military Government Ordinance No. 7 provides that, before these Tribunals, the "statements by the International Military Tribunal in the Judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary." The findings of the DMT with respect to the criminal character of the slave-labor program of the Third Reich were not challenged in this trial.

From the Judgment of the IMT we may deduce that by the end of 1941 Germany had achieved effective dominion over territories with an aggregate population of 350,000,000 people. In the early stages of the war an effort was made

to obtain, on a voluntary basis, sufficient foreign workers for German industry and agriculture, to replace those who were drafted into military service, but by 1940 this system had failed to produce enough workers to maintain the volume of production deemed necessary for the prosecution of the war. The compulsory deportation of laborers to Germany was then begun and, on 21 March 1942, Fritz Sauckel was appointed Plenipotentiary-General for the Utilization of Labor, with authority over "all available manpower, including that of workers recruited abroad, and of prisoners of war." From that time on the Nazi slave-labor program was prosecuted with unrelenting cruelty and persistence. The IMT said that "Manhunts took place in the streets, at motion picture houses, even at churches and at night in private houses" of occupied countries, to meet the ever-increasing demands of the Reich for human labor. At least 5,000,000 persons were forcibly deported from the occupied territories to Germany to support its war efforts.

The vast reservoir of slave laborers utilized by the Nazis included involuntary foreign workers, concentration-camp inmates, and prisoners of war. Many of these were used in activities connected with military operations against their own countries, in direct violation of express international law, as well as in general industry and in agricultural pursuits. The plan under which this comprehensive scheme was implemented and administered is disclosed by the following quotation from the IMT Judgment:

"A Sauckel decree dated 6 April 1942, appointed the Gauleiters as Plenipotentiary for Labor Mobilization for their Gaue with authority to coordinate all agencies dealing with labor questions in their Gaue, with specific authority over the employment of foreign workers, including their conditions of work, feeding, and housing. Under this authority the Gauleiters assumed control over the allocation of labor in their Gaue, including the forced laborers from foreign countries. In carrying out this task the

Gauleiters used many party offices within their Gaue, including subordinate Political Leaders."

On 20 April 1942 Sauckel issued the following instructions concerning the treatment of laborers:

"All the men must be fed, sheltered and treated in such a way as to exploit them to the highest possible extent, at the lowest conceivable degree of expenditure."

During the course of the war the main Farben plants, in common with German industry generally, suffered a serious labor depletion, on account of demands of the military for men to serve in the armed forces. Charged with the responsibility of meeting fixed production quotas, Farben yielded to the pressure of the Reich Labor Office and utilized involuntary foreign workers in many of its plants. It is enough to say here that the utilization of forced labor, unless done under such circumstances as to relieve the employer of responsibility, constitutes a violation of that part of Article II of Control Council Law No. 10 which recognizes as war crimes and crimes against humanity the enslavement, deportation, or imprisonment of the civilian population of other countries.

What we have said about the employment of involuntary foreign laborers is equally applicable to prisoners of war and inmates of concentration camps.

The Defense of Necessity:

The defendants here on trial have invoked what has been termed the defense of necessity. They say that the utilization of slave labor in Farben plants was the necessary result of compulsory production quotas imposed upon them by the government agencies, on the one hand, and the equally obligatory measures requiring them to use slave labor to achieve such production, on the other. Numerous decrees, orders, and directives of the Labor Office have been brought to our attention, from which it appears that said agency assumed dictatorial control over the commitment, allotment,

and supervision of all available labor within the Reich. Strict regulations prescribed almost every aspect of the relationship between employers and employees. Industries were prohibited from employing or discharging laborers without the approval of the agency. Heavy penalties, including commitment to concentration camps and even death, were set forth for violation of these regulations. The defendants who were involved in the utilization of slave labor have testified that they were under such oppressive coercion and compulsion that they cannot be said to have acted with that intent which is a necessary ingredient of every criminal offense.

The existence of the stringent regulations of the Reich labor authorities must be conceded; and this requires us to inquire what opportunity, if any, the defendants had of evading them and what the consequences would have been if they should have attempted to do so. Again, we turn to the Judgment of the DMT for the facts. A few of the ultimate conclusions stated therein will serve our purpose. We quote the following brief excerpts from that Judgment:

"According to (the leadership principle of the NSDAP), each Fuehrer has the right to govern, administer, or decree, subject to no control of any kind and at his complete discretion, subject only to the orders he received from above."

. . .

(The Reichstag fire of 28 February 1933)
"was used by Hitler and his Cabinet as a pretext for...suspending the constitutional guarantees of freedom."

. . .

"...a series of laws and decrees were passed which reduced the powers of regional and local governments throughout Germany, transforming them into subordinate divisions of the Government of the Reich."

. . .

"...the judiciary was subjected to control... Persons were arrested by the SS for political reasons, and detained in prisons and concentration camps...the judges were without power

to intervene in any way."

. . .

"Independent judgment, based on freedom of thought, was...quite impossible."

. . .

"Germany had accepted the dictatorship with all its methods of terror, and its cynical and open denial of the rule of law."

. . .

"Hostile criticism, indeed criticism of any kind, was forbidden, and the severest penalties were imposed on those who indulged in it."

. . .

"The opportunity was taken to murder a large number of people who at one time or another had opposed Hitler."

In view of these indisputable facts, established by the highest authority, this Tribunal is not prepared to say that these defendants did not speak the truth when they asserted that in conforming to the slave-labor program they had no other choice than to comply with the mandates of the Hitler Government. There can be but little doubt that the defiant refusal of a Farben executive to carry out the Reich production schedule or to use slave labor to achieve that end would have been treated as treasonous sabotage and would have resulted in prompt and drastic retaliation. Indeed, there was credible evidence that Hitler would have welcomed the opportunity to make an example of a Farben leader.

The question remains as to the availability of the defense of necessity in a case of this kind. The IMT dealt with an aspect of that subject when it considered the effect of Article 8 of its Charter, which provides:

"The fact that the defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment....."

Concerning the above provision the IMT said:

"That a soldier was ordered to kill or torture in violation of the international law of war has never been recognized as a defense to such acts of brutality, though, as the Charter here provides, the order may be urged in mitigation of the punishment. The true test, which is found in varying degrees in the criminal law of most nations, is not the existence of the order, but whether moral choice was in fact possible." (our emphasis).

Thus the IMT recognized that while an order emanating from a superior officer or from the government is not, of itself, a justification for the violation of an international law (though it may be considered in mitigation), nevertheless, such an order is a complete defense where it is given under such circumstances as to afford the one receiving it of no other moral choice than to comply therewith. As applied to the facts here, we do not think there can be much uncertainty as to what the words "moral choice" mean. The quoted passages from the IMT Judgment as to the conditions that prevailed in Germany during the Nazi era would seem to suggest a sufficient answer insofar as this case is concerned. Nor are we without persuasive precedents as to the proper application of the rule of necessity in the field of the law with which we are here concerned.

The case of the United States vs. Flick, et al. (Case 5), tried before Tribunal IV, involved the dominant figure in the German steel and coal industry and five of his business associates. They were charged, among other things, with having been active participants in the slave-labor program of the Third Reich. The Judgment of the Tribunal reviewed the facts and concluded that four of these defendants were entitled to the benefit of the defense of necessity. We quote from that Judgment because the facts therein disclosed are strikingly similar to those developed in the trial of this case:

"The evidence with respect to this Count clearly establishes that laborers procured under Reich regulations, including voluntary and involuntary foreign civilian workers, prisoners of war and concentration camp inmates, were employed in some of the plants of the Flick Konzern...It further appears that in some of the Flick enterprises prisoners of war were engaged in work bearing a direct relation to war operations.

"The evidence indicates that the defendants had no actual control of the administration of such program even where it affected their own plants. On the contrary, the evidence shows that the program thus created by the state was rigorously detailed and supervised by the state, its supervision even extending into prisoner of war labor camps and concentration camp inmate labor camps established and maintained near the plants to which such prisoners of war and concentration camp inmates had been allocated. Such prisoners of war camps were in charge of the Wehrmacht (Army), and the concentration camp inmates labor camps were under the control and supervision of the SS. Foreign civilian labor camps were under camp guards appointed by the plant management subject to the approval of state police officials. The evidence shows that the managers of the plants here involved did not have free access to the prisoner of war labor camps or the concentration labor camps connected with their plants, but were allowed to visit them only at the pleasure of those in charge."

...

"Workers were allocated to the plants needing labor through the governmental labor offices. No plant management could effectively object to such allocation. Quotas for production were set for industry by the Reich authorities. Without labor, quotas could not be filled. Penalties were provided for those who failed to meet such quotas. Notification by the plant management to the effect that labor was needed resulted in the allocation of workers to such plant by the governmental authorities. This was the only way workers could be procured."

...

"Under such compulsion, despite the misgivings which it appears were entertained by some of the defendants with respect to the matter, they submitted to the program and, as a result, foreign workers, prisoners of war, or concentration camp inmates became employed in some of the plants of the Flick Konzern and in Siemens. Such written reports and other documents as from time to time may have been signed or initialed by the defendants in

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connection with the employment of foreign slave labor and prisoners of war in their plants were for the most part obligatory and necessary to a compliance with the rigid and harsh Reich regulations relative to the administration of its program."

. . .

"The defendants lived within the Reich. The Reich, through its hordes of enforcement officials and secret police, was always 'present', ready to go into instant action and to mete out savage and immediate punishment against anyone doing anything that could be construed as obstructing or hindering the carrying out of governmental regulations or decrees."

. . .

"In this case, in our opinion, the testimony establishes a factual situation which makes clearly applicable the defense of necessity as urged in behalf of the defendants Steinbrinck, Burkart, Kaletsch and Terberger."

Tribunal IV convicted two defendants (Weiss and Flick), however, under the slave-labor count. The basis for these convictions was the active solicitation of Weiss, with the knowledge and approval of Flick, of an increase in their firm's freight-car production, beyond the requirements of the government's quota, and the initiative of Weiss in securing an allocation of Russian prisoners of war for use in the work of manufacturing such increased quotas. With respect to these activities the Tribunal concluded that Weiss and Flick had deprived themselves of the defense of necessity, saying:

"The war effort required all persons involved to use all facilities to bring the war production to its fullest capacity. The steps taken in this instance, however, were initiated not in governmental circles but in the plant management. They were not taken as a result of compulsion or fear, but admittedly for the purpose of keeping the plant as near capacity production as possible."

We have also reviewed the Judgment of the General Tribunal of the Military Government of the French Zone of Occupation in Germany, dated 30 June 1948, in which Hermann Roehling was convicted of participation in the slave-labor

program. That Judgment recites that said Roehling was "present at several secret conferences with Goering in 1936 and 1937;" that in 1940 he "accepted the positions of plenipotentiary-general for the steel plants of the departments of the Moselle and of Meurthe-et-Moselle Sud;" that, "stepping out of his role of industrialist, after having demanded high administrative and leading positions concerning the steel exploitation of the Reich," he became "dictator for iron and steel in Germany and the occupied countries;" that in 1943 said Roehling also "lavished advice on the Nazi Government in order to utilize the inhabitants of occupied countries for the war effort of the Reich;" that he "sent to the Nazi leaders in Berlin a memorandum requesting that he obtain the utilization of Belgian labor in order to develop German industry; that he suggests in this connection that youths of 18 to 25 should be drafted to obligatory work under German command -- which would mean the utilization of approximately 200,000 persons;" that he also "requested that negotiations be started immediately in order to obtain a considerable number of Russian youths of about 16 years of age for labor in the iron industry;" that he "requested the taking of a general census of French, Belgian and Dutch youths in order to force them to work in war plants or to draft them into the Wehrmacht together with the promulgation of a law which would make work obligatory in the occupied countries;" and that he also "incited the Reich authorities in the most insidious manner to employ inhabitants of occupied countries and POW's in armament work, with complete disregard of human dignity and the terms of the Hague Convention." Two defendants were acquitted and two others convicted by the French Tribunal. The latter -- von Gemmingen and Rodenhauser -- were found guilty as co-authors and accomplices to the above-described illegal employment of

prisoners of war and deportees by Hermann Roehling, and to his encouragement of illegal punishments meted out to said involuntary laborers. Said illegal punishments were imposed by a summary court organized, in agreement with the Gestapo, by von Gemmingen and Rodenhauser in the Roehling plant, of which they were both directors. It is thus made clear that the defense of necessity could not have been successfully invoked on behalf of either of said named defendants. Concerning the acquitted defendants, Ernst Roehling and Albert Maier, the high Tribunal expressly said that the evidence did not establish that either of them exercised initiative in connection with the slave-labor program.

It is plain, therefore, that Hermann Roehling, von Gemmingen, and Rodenhauser, like Weiss and Flick, were not moved by a lack of moral choice but, on the contrary, embraced the opportunity to take full advantage of the slave-labor program. Indeed, it might be said that they were, to a very substantial degree, responsible for broadening the scope of that reprehensible system.

From a consideration of the IMT, Flick, and Roehling Judgments, we deduce that an order of a superior officer or a law or governmental decree will not justify the defense of necessity unless, in its operation, it is of a character to deprive the one to whom it is directed of a moral choice as to his course of action. It follows that the defense of necessity is not available where the party seeking to invoke it was, himself, responsible for the existence or execution of such order or decree, or where his participation went beyond the requirements thereof, or was the result of his own initiative.

Auschwitz and Fuerstengrube:

As early as 1938, the erection of a plant for the production of Buna rubber in the eastern part of Germany was discussed between ter Meer and the Reich Economics Ministry.

A site was considered in Upper Silesia and another in the northern part of Sudetenland. Later, at the time the site at Auschwitz was selected, Norway was also considered.

At a conference in the Reich Ministry of Economics on 6 February 1941, the planning of the expansion of Buna production was discussed. Ambros and ter Meer were present. It was reported that at a previous meeting held on 2 November 1940, the Reich Ministry of Economics had approved such expansion and Farben was instructed to choose an appropriate site in Silesia for a fourth Buna plant. It appears that, pursuant to this instruction and upon the recommendation of the Defendant Ambros, the site at Auschwitz was chosen.

It was estimated that the new Buna plant would have a production capacity of 30,000 tons per year. It was planned to combine the Buna factory with a new fuel-producing plant on the same site, but Buna was to be given preference. A number of considerations entered into the selection of Auschwitz: they included an ideal topographical location which was not vulnerable to air attacks from the west, the proximity to important raw materials, an abundant supply of coal and water, and the availability of labor. The labor situation embraced two factors: the comparatively dense population of the area and the nearby concentration camp Auschwitz, from which forced labor could be obtained. The evidence is sharply conflicting as to the importance of the concentration camp in deciding upon the location of the plant. We are satisfied, after a thorough consideration of the evidence, that while the camp may not have been the determining factor in selecting the location, it was an important one and, from the beginning, it was planned to use concentration-camp labor to supplement the supply of workers.

The three Farben officials most directly responsible for construction at Auschwitz were Ambros, Buetefisch, and Duerrfeld.

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Ambros was the technical expert with respect to Buna. He was a member of the planning committee, whose meetings he attended regularly. Bustefisch was the expert in regard to fuels and dealt with the planning and erection of the fuel-producing plant. His headquarters were at Leuna, a Farben plant devoted mainly to important fuel production. According to his own testimony he went to Auschwitz about twice a year and informed himself about the progress of the construction project. He visited the site and the various workshops and saw the concentration-camp inmates at work. He visited the main concentration camp at Auschwitz in the winter of 1941 - 1942 in company with some thirty important visitors, among whom was Dr. Ambros. On this visit he saw no abuse of inmates and thought that the camp was well-conducted. He never visited the labor camp of Monowitz. The defendant Duerrfeld, as chief engineer and later as manager of the construction work at Auschwitz, had general supervision over the work. Numerous witnesses have testified as to his presence on the site on different occasions. He made frequent inspection trips during which he observed the laborers at work. He also visited the adjoining labor camp at Monowitz, over which the SS had supervision.

Duerrfeld reported that Hoss, the camp commander of the concentration camp, was very willing to support the construction management to the best of his ability and that he would furnish for 1941 about 1,000 unskilled laborers. In 1942 this number could be raised to 3,000 or 4,000. Farben was to assist in erecting barracks by supplying wood and also some iron. The prisoners were to be utilized in groups of about twenty supervised by Kapos.

On 4 March 1941, a circular was issued from the office of the Plenipotentiary for the Four-Year Plan in Berlin, directed to Ambros and containing certain information regarding Auschwitz. This letter advised that the Inspector of Concentration

Camps and the Chief of the Main Economic and Administration Office had been ordered to get in touch with the construction manager of the Buna Works and to aid the construction project by means of concentration-camp prisoners. The chief of Himmler's personal staff, Gruppenfuehrer Wolf, was to be appointed liaison officer between the SS and the Auschwitz Works. Copies of this letter were distributed to ter Meer, Buetefisch, and Duerrfeld. Shortly thereafter Duerrfeld and Buetefisch had a conference with Wolf in Berlin, at which the utilization of concentration-camp workers was discussed. The parties were in general accord on the assistance to be rendered by the concentration camp. Wolf made no definite promises and left matters of detail to be arranged by negotiations between Duerrfeld and Hoess, who was the camp commander at Auschwitz.

The first building conference with respect to Auschwitz construction was held on 24 March 1941 in Ludwigshafen. Nine persons were present. They were officials and engineers of Farben. The only two who have been made defendants in this case are Ambros and Duerrfeld. At this meeting it was decided to hold building conferences at weekly intervals for the present. The purpose of the conferences was to allot fields of work to the individual conference members with a view to avoid overlapping of activities. The members of the conference made reports on performance of their respective duties. Ambros reported that the general planning of the Auschwitz plant lay at present in the hands of engineers Santo, Duerrfeld, and Mach. Duerrfeld reported on a discussion with Wolf of the head office of the Reichsfuehrung SS, and stated that it had been promised 700 prisoners of the Auschwitz concentration camp would be assigned to the building site for labor and that an attempt would be made by the head office to procure an exchange with other concentration camps so that skilled workers might be transferred to Auschwitz.

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All available free labor in Auschwitz was also to be utilized.

On 7 April 1941, a founders' meeting was held at Kattowitz to commemorate the founding of the plant at Auschwitz. Reich officials of the Office of Industrial Planning and the Office of Economic Planning were apparently in charge of the meeting. They called for plans and reports regarding Auschwitz. Ambros was present with information concerning the Buna plant. Bueterfisch, whose functions in connection with Auschwitz dealt with fuels, including gasoline, reported that the Fuerstengrube mines would furnish coal supplies for Auschwitz. The report also states: "By order of the Reichsfuehrer SS extensive assistance from the Auschwitz concentration camp had been promised for the building period. The camp commandant, Sturmbannfuehrer Hoess, had already made arrangements for the employment of his men. The concentration camp would supply prisoners for preliminary work and craftsmen for carpentry and fitting; it would also assist the plant in the feeding of the building workers and would supply the building site with gravel and other materials."

The construction of the Auschwitz plant began in 1941. The Jewish population of the area was evacuated, as were many of the resident Poles. Their houses were utilized as quarters for construction workers. Farben did not handle the construction work directly but made contracts with construction firms. These firms, however, called upon Farben to assist in procuring labor. Labor procurement was a Farben responsibility. Free workers were not available in sufficient numbers to cover the requirements of the construction firms.

On 23 October 1941, at a meeting of the Plastics and Rubber Committee, attended by ter Meer and Ambros, the recorder of the committee reported on the state of construction work at Auschwitz. With respect to labor he said: "At present 2,700 men are working on the building site. The support

given by the concentration camp Auschwitz is very valuable. This camp made available 1,300 men and all of its workshops."

By the end of 1941, the construction at Auschwitz was not proceeding satisfactorily. At the fourteenth building conference, held on 16 December 1941, bottlenecks at the construction site were discussed. Among other things, it was reported that the concentration camp could not give the expected help since it was under orders to set up accommodations for 120,000 captured Russians as fast as possible. Other possible sources of labor were considered. These do not appear to include either forced foreign labor or prisoners of war.

In the report of the 19th construction conference, on 30 June 1942, reference is made for the first time to the employment of forced labor other than that from the concentration camp. It appears that 680 Polish forced laborers had been employed recently and therefore no evaluation was as yet possible as to whether or not they were satisfactory. The report also stated that women from the Ukraine were well fitted for excavation work, but the voluntary status of these women workers is not disclosed. At the 20th construction conference, on 8 September 1942, Duerrfeld, Ambros, and Buetefisch were present. Duerrfeld reported that the intended sharp increase of labor requirements would continue to strain the provisions for workers and that certain auxiliary supply sources for labor were available, among them being recruitments of Poles, which would provide 1,000 workers. 2,000 Russian workers were to be sent to Auschwitz by order of Sauckel, but no definite promises were at hand. This statement would imply that the Auschwitz construction management was seeking these workers. This report also states that Sauckel promised 5,000 prisoners of war for the building sites in Upper Silesia and that 2,000 of these were intended for Auschwitz while the remainder went to other firms.

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Reports of subsequent construction conferences show that forced workers and prisoners of war continued to be employed at Auschwitz in construction work. Auschwitz was financed and owned by Farben. While its purpose was the production of Buna and motor fuels which would be of immediate use to the Armed Forces of Germany, the plant was being built on a permanent basis with the ultimate object of operating it in peacetime private industry. The use of prisoners of war in the type of construction disclosed by this record does not appear to be in contravention of the prohibition of the Geneva Convention, and unless their treatment was such as to violate international law it does not appear that a crime was committed in their utilization. The prisoners of war were treated better than other types of workers in every respect. The housing, the food, and the type of work they were required to perform would indicate that they were the favored laborers of the plant site. There may have been isolated instances of ill-treatment, but they cannot be attributed to any overall policy of Farben or to acts with which any of the defendants may be charged directly or indirectly. It therefore appears that we need give no further consideration to the employment of prisoners of war at Auschwitz.

The construction workers obtained from the Auschwitz concentration camp were prisoners of the SS. They were housed, fed, guarded, and otherwise supervised by the SS. In the summer of 1942 a fence was built around the plant site. SS guards were thereafter not permitted within the enclosure, but they still had charge of the prisoners at all times except when they were actually in the enclosed area. The Auschwitz concentration camp was located about seven kilometers from the plant site. The prisoners were marched to and from that site under SS guard.

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The plight of the camp workers in the winter of 1941 - 1942 was that of extreme hardship and suffering. With inadequate food and clothing, large numbers of them were unable to stand the heavy labor incident to construction work. Many of those who became too ill or weak to work were transferred by the SS to Birkenau and exterminated in the gas chambers.

In 1942, at the instigation of Yarben, a separate labor camp known as Monowitz was built adjacent to and across the road from the plant site. This camp was some improvement as to its physical aspects over the Auschwitz concentration camp. The workers, however, were still under the control and supervision of the SS at all times when they were not on the construction site. Those who became unable to work or who were not amenable to discipline were sent back to the Auschwitz concentration camp or, as was more often the case, to Birkenau for extermination in the gas chambers. Even at Monowitz the housing was at times insufficient to reasonably accommodate the large number of workers crowded into the barrack-like facilities. The food was inadequate, as was also the clothing, especially in the winter.

The plant site was not entirely without inhumane incidents. Occasionally beatings occurred by the plant police and supervisors who were in charge of the prisoners while they were at work. Sometimes workers collapsed. No doubt a condition of undernourishment and exhaustion from long hours of heavy labor was the primary cause of these incidents. Rumors of the selections made for gassing from among those who were unable to work were prevalent. Fear of this fate no doubt prompted many of the workers, especially Jews, to continue working until they collapsed. In Camp Monowitz, the SS maintained a hospital and medical service. The adequacy of this service is a point of sharp conflict in the evidence. Regardless of the merits of the opposing contentions on this

point, it is clear that many of the workers were deterred from seeking medical assistance by the fear that if they did so they would be selected by the SS for transfer to Birkenau. The Auschwitz construction workers furnished by the concentration camp lived and labored under the shadow of extermination.

The Defense has stressed, not wholly without merit, that the concentration-camp workers lived under the control of the SS and worked under the immediate employment and direction of the construction contractors (some 200 or more) who were engaged in preparing the site and building the plant. It is clear that Farben did not deliberately pursue or encourage an inhumane policy with respect to the workers. In fact, some steps were taken by Farben to alleviate the situation. It voluntarily and at its own expense provided hot soup for the workers on the site at noon. This was in addition to the regular rations. Clothing was also supplemented by special issues from Farben. Despite this, however, it is evident that the defendants most closely connected with the Auschwitz construction project bear great responsibility with respect to the workers. They applied to the Reich Labor Office for labor. They received and accepted concentration-camp workers, who were placed at the disposal of the construction contractors working for Farben. The chief engineer, Duerrfeld, with the advice of other defendants, had a definite responsibility regarding the project in the overall supervision of and authority over the construction work. Responsibility for taking the initiative in the unlawful employment was theirs and, to some extent at least, they must share the responsibility for mistreatment of the workers with the SS and the construction contractors.

Concentration-camp workers by no means constituted all of the laborers on the plant site. Free workers were employed

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in large numbers. Foreign workers made their appearance there in 1941. Many, if not all, of these were at first voluntary workers, that is, foreigners who had contracted to come to Germany for a stated amount of pay. They consisted chiefly of Poles, Ukrainians, Italians, Slavs, French, and Belgians. Some experts and technicians were also recruited on a similar basis. After Sauckel's program of forced labor became effective, workers of this type began to appear at Auschwitz in increasing numbers. The defendants contend that, the recruitment of labor being under direct control of the Reich, they did not know the conditions under which the recruitment took place, and since the foreign workers at first were procured on a voluntary basis, the defendants were unaware later that the method had been changed and that many of the subsequent workers had been procured through a system of forced labor recruitment. This contention cannot be successfully maintained. The labor for Auschwitz was procured through the Reich Labor Office at Farben's request. Forced labor was used for a period of approximately three years, from 1942 until the end of the war. It is clear that Farben did not prefer either the employment of concentration-camp workers or those foreign nationals who had been compelled against their will to enter German labor service. On the other hand, it is equally evident that Farben accepted the situation that was presented to it through the Labor Office of the Reich and that when free workers, either German or foreigners, were unobtainable they sought the employment and utilization of people who came to them through the services of the concentration camp Auschwitz and Sauckel's forced-labor program.

Closely associated with Auschwitz was a project for the control by Farben of the output of certain coal mines. At the founders' day meeting, the Defendant Buetevisch reported that a new company had been founded for the purpose of

securing, from the Puerstengrube Mine, coal supplies for the Auschwitz plant. In this new company Farben controlled 51% of the stock and was, therefore, in a position to determine the destination of the output of the mine. Later, through this same company, Farben acquired the controlling interest in another mine known as Janina. Bueteffisch became the chairman of the Aufsichtsrat of the new company, Puerstengrube G.m.b.H. In this capacity he fitted into the general program of Auschwitz as an expert on fuels. He and the Defendant Ambros were important factors in the acquisition of the control of the Janina Mine in 1942. These mines were important in the plans of Farben, for it was intended that their production would be utilized in connection with the manufacture of gasoline from coal in the fuels plant at Auschwitz.

It seems clear from this record that Polish laborers were used by Puerstengrube in mining operations in 1943. This was long after the conquest of Poland and the impressment of the Poles into the ranks of German labor. British prisoners of war were also employed by Puerstengrube, particularly in the Janina Mine. These prisoners offered considerable resistance to their employers, with the result that they were withdrawn from labor in the mines in the latter part of 1943. They were replaced by concentration-camp workers. A file note discloses that Hoess and Doerrfeld inspected the Janina and Puerstengrube mines on 16 July 1943. It was then agreed that British prisoners of war should be replaced by concentration-camp inmates. It was estimated by the SS that 300 camp inmates could be accommodated at Janina where 150 British prisoners of war were housed. At the Puerstengrube Mine 600 inmates could be accommodated, and the fencing-in of the camp would be started at once. Another camp was also to be taken over,

and it was estimated that altogether it would be possible to use 1,200 or 1,300 inmates at Fuerstengrube.

As we recapitulate the record of Auschwitz and Fuerstengrube, we find that these were wholly private projects operated by Farben, with considerable freedom and opportunity for initiative on the part of Farben officials connected therewith. The evidence does not show that the choice of the Auschwitz site and the erection of a Buna and fuels plant thereon were matters of compulsion, although favored by the Reich authorities, who were anxious that a fourth Buna plant be put into operation. The site was chosen after a survey of many factors, including the availability of concentration-camp labor for construction work. As an adjunct of Auschwitz, the controlling interest in the Fuerstengrube and Janina Mines was acquired under circumstances that impute knowledge of the fact that they could not be operated successfully by voluntary labor. Involuntary labor was used: first, Poles and prisoners of war and, later, concentration-camp inmates. The use of prisoners of war in coal mines in the manner and under the conditions disclosed by this record, we find to be a violation of the regulations of the Geneva Convention and, therefore, a war crime. The use of concentration-camp labor and forced foreign workers at Auschwitz with the initiative displayed by the officials of Farben in the procurement and utilization of such labor, is a crime against humanity and, to the extent that non-German nationals were involved, also a war crime, to which the slave-labor program of the Reich will not warrant the defense of necessity. It also appears that the employment of concentration-camp labor was had with knowledge of the abuse and inhumane treatment meted out to the inmates by the SS, and that the employment of these inmates on the Auschwitz site aggravated the misery of these unfortunates and contributed to their distress.

Our consideration of Auschwitz and Puerstengrube has impressed upon us the direct responsibility of the Defendants Duerrfeld, Ambros, and Buetefisch. It will be unnecessary to discuss these defendants further in this connection, as the events for which they are responsible establish their guilt under Count Three beyond a reasonable doubt. These defendants are not the only ones connected with the Auschwitz project. The connection of others will be considered when we approach their respective cases.

Krauch:

As we further appraise the responsibility of the respective defendants, we find that Krauch, as Plenipotentiary General for Special Questions of Chemical Production, dealt with the distribution of labor that had been allocated to the chemical sector by Seuckel. It was Krauch's responsibility to pass upon the applications for workers made by the individual plants of the chemical industry and, in so doing, he took into account the demands that military service had made upon the plants as well as the labor requirements that resulted from expansion. It seems that Krauch is inextricably involved in the allocation of labor to Auschwitz in a manner that negatives his lack of knowledge of the employment of concentration-camp inmates and forced foreign labor on the Auschwitz construction project. On 25 February 1941, Krauch wrote a letter to Ambros in which he referred to Goering's order emphasizing the urgency of the project and advising Ambros of the priority of Auschwitz in the procurement of labor. Later Krauch himself visited the construction site.

On 7 January 1943, Krauch addressed a letter to Duerrfeld in which he complimented Duerrfeld, as Krauch's commissary, in setting up the Poelitz installation. He then ordered Duerrfeld to continue as commissary for the setting up of the whole Auschwitz plant and states: "I wish to assure you of my personal support in every way in your carrying out of this

task."

The minutes of a meeting of the Central Planning Board on 2 July 1943, with Krauch present as one of the board members, discloses that Ambros gave a review of damage, apparently from Allied bombing, at the Huels plant of Farben, in which he discussed the labor requirements for reconstruction which involved the procurement of men from the compulsory service of the Reich. The Planning Board promised the fulfillment of Ambros' requests in this respect. It also discussed the labor situation at Auschwitz and the need for more workers, including additional inmates from the Auschwitz concentration camp. With respect to the latter request, it is stated that Reichsfuehrer Himmler should be contacted immediately.

On 13 January 1944, Krauch addressed a letter to President Kehrl of the Central Planning Board, in which he discussed the allocation of labor. It appears that there had been in the past some misunderstanding between Krauch's office and the Armaments Office. Krauch maintained his position by saying:

"May I be allowed to point out, however, that the efforts of my office in such matters as the procurement of foreign labor within the restrictions set out on the initiative of the individual employer by the Plenipotentiary General for the Provision of Manpower, and the employment of certain classes of manpower (prisoners of war, inmates of concentration camps, prisoners, units of the Military Pioneer Corps, etc.,) have had an effect upon the speed of progress of chemical production, and upon that production itself, which must not be under-estimated. I consider that the initiative displayed by my staff in the procurement of labor, a virtue which has proved its worth in the past, must not be repressed in the future."

Krauch vigorously challenges the charges that he participated in the recruitment of slave labor. His agents were active in voluntary recruitment prior to the initiation of the Sauckel program. Some of these agents continued to seek skilled workers for some time thereafter. To what extent,

if any, these skilled workers were forced to emigrate to Germany does not appear. The evidence does not convince us that Krauch was either a moving party or an important participant in the initial enslavement of workers in foreign countries. Nevertheless, he did, and we think knowingly, participate in the allocation of forced labor to Auschwitz and other places where such labor was utilized within the chemical field. The evidence does not show that he had knowledge of, or participated in, mistreatment of workers at their points of employment. In view of what he clearly must have known about the procurement of forced labor and the part he voluntarily played in its distribution and allocation, his activities were such that they impel us to hold that he was a willing participant in the crime of enslavement.

The use of prisoners of war in war operations and in work having a direct relation to such operations was prohibited by the Geneva Convention. Under Count Three the defendants are charged with violations of this prohibition. To attempt a general statement in definition or clarification of the term "direct relation to war operations" would be to enter a field that the writers and students of international law have found highly controversial. We therefore limit our observations to the particular facts presented by this record.

On 31 October 1941, Keitel, who was then Chief of the High Command of the Armed Forces of Germany, issued a secret order, the subject of which was "Use of Prisoners of War in the War Industry," wherein he stated that the Fuehrer had ordered that the working power of Russian prisoners of war should be utilized to a large extent to meet requirements of the war industry. He listed examples of the type of work for which these prisoners might be suitable, which included construction work for both the Armed Forces and the Armament industry. Other important activities so listed were armament

factories, mining, railroad construction, agriculture, and forestry. The distribution list of this order does not include Krauch or his immediate superior, Colonel Loeb. The fact that Krauch had given favorable consideration to the use of Russian prisoners of war in the armament industry is disclosed by a letter of Kirschner, a subordinate of Krauch, who wrote to General Thomas, Chief of the Office of Military Economy and Armament, on 20 October 1941, that he had discussed the matter with Krauch. Kirschner reports that Krauch had developed an idea concerning the employment of Russian prisoners of war and enclosed a note of Krauch's intentions with his letter. We do not have the benefit of the contents of this note, but we are, nevertheless, satisfied that Krauch was in accord with the use of prisoners of war in the war industry. But that, in itself, is not sufficient to warrant a finding of Guilty for the commission of war crimes under Count Three. Keitel's order gives no authority to the Plenipotentiary General for Special Questions of Chemical Production in the allocation of prisoners of war to the various plants and industries. This authority is left with the Reich Ministry for Armament and Munitions in agreement with the Reich Ministry for Labor and Supreme Commander of the Armed Forces. The deputies of the Reich Ministry for Armament and Munitions were given authority to enter prisoner-of-war camps to assist in the selection of skilled workers. We are unable to find in the record any instance of the allocation of prisoners of war by Krauch for purposes prohibited by the Geneva Convention. We reach the ultimate conclusion that Krauch, by his activities in connection with the allocation of concentration-camp inmates and forced foreign laborers, is Guilty under Count Three.

Ter Meer:

The Defendant ter Meer, as the technical leader of Farben as well as head of Sparte II and chairman of the

Technical Committee, had general supervision of matters pertaining to production and new construction. He discussed the expansion of Buna production with the Reich Ministry of Economics on several occasions. On 2 November 1940 that Ministry approved the expansion and advised Farben through Ter Meer and Ambros to choose an appropriate site in Silesia on which to erect a plant. Ter Meer was Ambros' immediate superior, and to that superior Ambros reported on numerous occasions. Ter Meer states, "I believe that most of the information I had on the building of the Auschwitz plant came either through correspondence or through conversations with Ambros, and Ambros has in very long conversations shown me all the things which I call good industrial conditions. I know that he brought me a map and that he showed me everything, but according to the best of my recollection he did not draw special attention to the existence of the concentration camp. Ambros himself in the TEA developed, with the help of a map of the site of Auschwitz, the general conditions, the size, and also the way the factory should be built. I do not recall that he at that time discussed that some of the labor would be drawn from the nearby concentration camp, but I would say that Ambros, who in his reports of this kind was very exact, probably mentioned it, but I am not positive."

That the concentration camp figured in the early plans with respect to Auschwitz is disclosed in the documents referred to in our general discussion of that project. There are other documents and reports of a similar nature. For instance, on 16 January 1941 at a discussion in Ludwigshafen between representatives of Farben and Schlesien-Benzin, at which Ambros was present, a report was given by a director of the latter firm regarding the desirability of the Auschwitz site. It was reported that the inhabitants of Auschwitz consisted of 2,000 Germans, 4,000 Jews, and 7,000 Poles. The Jews and Poles were to be turned out so that the town

would be available for the staff of the factory. The report then states: "A concentration camp will be built in the immediate neighborhood of Auschwitz for the Jews and Poles."

At a regional planning meeting on 31 January 1941, attended by Chief Engineer Santo of the Ludwigshafen Plant, who later became a member of the Auschwitz Planning Committee, the labor problems of Auschwitz were again discussed, and it is stated in the report that, "The concentration camp already existing with approximately 7,000 prisoners is to be expanded. Employment of prisoners for the building project possible after negotiations with the Reichsfuehrer SS."

We have already referred to the meeting of the Plastics and Rubber Committee attended by ter Meer and Ambros on 23 October 1941, at which reference was made to the valuable support given by the Auschwitz concentration camp.

Ter Meer personally visited the Auschwitz site in October 1941. He was accompanied on this inspection by Hoess, the camp commandant. He says: "Hoess was in no way favorable to sending concentration-camp inmates to the Auschwitz Works. He wanted them to work for the factory in the camp itself."

Ter Meer again visited the Auschwitz site in November 1942 and also the Monowitz Labor Camp, in which the concentration-camp inmates who were working on the building site were housed.

The evidence clearly establishes that one of the chief problems of Farben in connection with the building of the Auschwitz Plant was the procurement of labor for the construction work. Thousands of unskilled laborers were required, whose work was of course only temporary and who would not become permanent employees. It was the type of labor that could be procured through the concentration camp and the Sauckel program. The captured documents to which we

have referred establish beyond question that the availability of concentration-camp labor figured in the planning of the Auschwitz construction. Ambros played a major role in this planning. His immediate superior with whom he had frequent contact and to whom he made detailed reports was ter Meer. The overall field of new construction was one in which ter Meer was both active and dominant. It is indeed unreasonable to conclude that, when Ambros sought the advice of and reported in detail to ter Meer, the conferences were confined to such matters as transportation, water supply, and the availability of construction materials and excluded that important construction factor, labor, in which the concentration camp played so prominent a part. Ter Meer's visits to Auschwitz were no doubt as revealing to him as they are to this Tribunal. Hoess was reluctant to have his inmates work on the plant site. He preferred to keep them within the camp. These workers were not forced upon Farben. The inference is strong that Farben officials subordinate to ter Meer took the initiative in securing the services of these inmates on the plant site. This inference is further supported by the fact that Farben at its own expense and with its own funds appropriated by the TEA, of which ter Meer was chairman, built Camp Monowitz for the specific purpose of housing its concentration-camp workers. We are convinced beyond a reasonable doubt that the officials in charge of Farben construction went beyond the necessity created by the pressure of governmental officials and may be justly charged with taking the initiative in planning for and availing themselves of the use of concentration-camp labor. Of these officials ter Meer had greatest authority. We cannot say that he countenanced or participated in abuse of the workers. But that alone does not excuse his otherwise well-established guilt under Count Three.

Other Members of the TEA and the Plant Leaders:

In addition to the Defendants ter Meer and Ambros, the Defendants Gajewski, Hoerlein, Buerger, Jachne, Kuehne, Lautenschlaeger, Schneider, and Wurster were also members of the Technical Committee. These defendants were plant leaders or managers of one or more of the important plants of Farben. These plants were integrated into the war economy of the Reich by order of governmental authority. In a Hitler decree regarding the protection of armament economy, dated 21 March 1942, war essential requirements were given absolute priority in the allocation of available manpower. Plant leaders were ordered to consider the necessities of the Reich in war economy as if they were their own. "All considerations, arising from personal interests or from the desire for peace, must be discarded...Whoever disregards this trust and offends against the conduct expected of a plant leader, will be subjected to unrelenting, most severe punishment,..."

This decree was supplemented by others issued by Hitler and by proclamations of his subordinate officials, dealing with production quotas, allocation of labor, priorities for raw materials, and other measures looking toward coordination within the field of armament economy. These were further supplemented by orders prescribing in still more detail measures to be taken and restrictions to be imposed. For instance, in the matter of labor, these orders covered hours of work, food, clothing, and housing, and made distinctions in the treatment of various kinds of workers. The eastern workers generally were to be treated with greater severity than the other classes.

A system of armament inspectorates was set up which covered plants connected with the armament industry. The inspectors learned every detail about the factories within their respective districts and the conditions therein with

regard to production orders and manpower. They were directed to supervise the allocation of labor and the proper consumption of raw materials on quota, plant maintenance, coal, etc., in the plants of which they were in charge. Thus it appears that the plant leaders were given little opportunity to exercise initiative in matters pertaining to production. They were all well informed of and knew that compulsory foreign workers, prisoners of war and concentration camp inmates were being employed in the Farben plants and they acquiesced in this practice under the pressure of conditions as they then existed in the Reich. We are not convinced from the proof that any of these defendants exercised initiative in obtaining forced labor under such circumstances as would deprive them of the defense of necessity. Ambros made a report at a meeting of the TEA on 21 April 1941 in which he specifically mentioned that concentration camp inmates were being utilized in construction work at the Buna plant Auschwitz, but the extent of his disclosures is not revealed by the evidence. It is not established that the members of the TEA were informed of or that they knew of the initiative being exercised by the Defendants Ambros, Bueteifisch, and Duerrfeld in obtaining workers for the Auschwitz project, or that the availability of such labor was one of the determining factors in the location of the Auschwitz site. The affiant Struss, Director of the Office of the Technical Committee testified:

"The members of the TEA certainly knew that I.G. employed concentration camp inmates and forced laborers. That was a common knowledge in Germany but the TEA never discussed those things. TEA approved credits for barracks for 160,000 foreign workers for I.G."

The members of the TEA, with the exception of the chairman ter Meer, were plant leaders. Under the decentralized system of the Farben enterprise each leader was primarily responsible for his own plant and was generally uninformed

as to the details of operations at other plants and projects. Membership in the TEA does not import knowledge of these details. As plant leaders each was subject to the orders and supervision of the Reich authorities with respect to the operation of his own plant. He was not required to assume that governmental orders and decrees were being exceeded or that other members were taking criminal initiative in the field of employment. There is a dearth of evidence regarding information made available to the members of the TEA, other than Ambros, about conditions at Auschwitz. We cannot assume that the general membership of the committee knew of the initiative displayed by Ambros in planning for or obtaining the use of concentration camp workers or forced laborers on the construction project. On this state of the record we are not prepared to find that the members of the TEA, by voting appropriations for construction and housing at Auschwitz and other Farben plants, can be considered as knowingly authorizing and approving the course of criminal conduct which we have found to be present in the cases of the individual defendants whose guilt we have already found to be established.

Concerning the charges of mistreatment of forced foreign workers and prisoners of war in the Farben plants of the various works combines, much conflicting evidence has been presented. Its evaluation impels us to find that as a general policy Farben attempted to carry out humane practices in the treatment of its workers and that these individual defendants did what was possible under then existing conditions to alleviate the miseries inherent in the system of slave labor. Huge sums were expended for housing and a variety of welfare purposes. There were many isolated abuses of individual workers but it has not been shown that such acts were countenanced by any of these defendants nor can it be said that they went beyond what the regulations required in the treatment or discipline of the workers. Here again it

must be recalled that the Gestapo was ever on hand to enforce compliance by an employer with what the system demanded. At the Landsberg plant, one of the units under the jurisdiction of the Defendant Gajewski, a number of prisoners of war died during the course of their work. We do not consider that the proof establishes that this resulted from mistreatment by Farben officials. The military authorities were largely responsible for the food, treatment and allocation to duties of prisoners of war. The proof presented on this matter is consistent with the inference that the prisoners of war were in a poor state of health when they arrived and that this was the cause of their deaths rather than work or ill-treatment. Nor may we, in justice, hold the Defendant Buergin responsible for the two criminal atrocities occurring at the Bitterfeld plant. On one occasion a Russian prisoner was shot attempting to escape confinement. There is no showing that Buergin had any connection with the incident or that he countenanced or approved any such action. Buergin was not at the Bitterfeld plant on the occasion when the Gestapo publicly hanged five Russians at one of the camps to intimidate the other workers. The record shows that the plant management protested the contemplated action of the Gestapo and withheld, at no little risk, its cooperation. The evidence relied upon by the Prosecution to establish initiative on the part of individual plant leaders in obtaining and using compulsory labor has been carefully considered by the Tribunal. Without reviewing each item of evidence in detail it is our conclusion that the action of the defendants in this regard has not been established beyond reasonable doubt.

It is contended that Schneider, as the Chief Plant Leader of Farben bears special responsibility in the field of labor within Farben and that he may be held criminally liable for the employment and mistreatment of workers. As

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we analyze the position of Schneider it is our conclusion that his functions did not supersede the authority of the local plant leaders. He was a general coordinator in the field of housing and welfare matters affecting more than one plant but there is not sufficient evidence to establish that he exercised initiative in the procurement or allocation of labor within Farben. We have considered evidence as to the Leuna plant, of which Schneider was also the leader, and cannot conclude that it proves initiative of a character to deprive him of the defense of necessity which has otherwise been established.

It is our conclusion and we hereby find and adjudge that the Defendants Gajewski, Hoerlein, Buerger, Jaehne, Kuehne, Lautenschlaeger, Schneider, and Wurster are Not Guilty under Count Three of the Indictment.

Remaining Defendants:

There can be no doubt that the Defendant Schmitz, Chairman of the Vorstand, and the other Vorstand members not previously mentioned, namely, the Defendants von Schnitzler, von Klerien, Haefliger, Ilgner, Mann, and Oster, all knew that slave labor was being employed on an extensive scale under the forced labor program of the Third Reich. Schmitz twice reported to the Aufsichtsrat on the manpower problems of Farben pointing out that it had become necessary to make up for the shortage of workers by employment of foreigners and prisoners of war. This evidence does not establish that Farben was taking the initiative in the illegal employment of prisoners of war. Neither Schmitz nor any of the members of the Vorstand here under discussion were shown to have ever exercised functions in the allocation or recruitment of compulsory labor. We cannot say that it has been proved that initiative in the procurement of concentration camp inmates was ever exercised by these defendants. The proof does not

establish to our satisfaction that, in approving the Auschwitz project, the Vorstand considered the employment of concentration camp inmates to be one of the factors entering into the decision for the location of the Auschwitz plant. It is not even clearly established that they knew inmates would be so used at the time of giving such approval. Their knowledge was necessarily less than that of members of TEA as to whom we have likewise indicated, we consider the proof to be insufficient. What we have said in general on the subject of mistreatment of workers in the Farben plants applies equally to these defendants. We cannot hold that they are responsible criminally for the occasional acts of mistreatment of labor employed in the various Farben plants nor do we consider these defendants to be responsible for the occurrences at the Auschwitz construction site.

On the record before us we find and adjudge that the Defendants Schmitz, von Schnitzler, von Krierem, Haefliger, Ilgner, Menn, and Oster are Not Guilty under Count Three.

The defendants Gattineau, von der Heyde, and Kugler were not members of Farben's Vorstand, nor were they members of the Technical Committee. No substantial evidence of an incriminating character connects them with any of the charges in Count Three in a manner sufficient to establish their guilt. Each of these three defendants is, therefore, acquitted of all charges under this Count.

COUNT FOUR

This Count charges that:

"The Defendants Schneider, Bueteefisch, and von der Heyde are charged with membership, subsequent to 1 September 1939, in Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the 'SS'), declared to be criminal by the International Military Tribunal, and Paragraph 1 (d) of Article II of Control Council Law No. 10."

It is a matter of history that the organization referred to in the Indictment as the "SS" was established by Hitler in 1925 and that membership therein was entirely voluntary until 1940, when conscription was also inaugurated. The SS was composed of several units, many of which were utilized in the perpetration of some of the most reprehensible atrocities committed during the Nazi regime.

Article II, 1, (d) of Control Council Law No. 10, provides that:

"1. Each of the following acts is recognized as a crime: . . .

"(d) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal."

Article 10 of the Charter of the IMT provides:

"In cases where a group or organization is declared criminal by the Tribunal, the competent national authority of any Signatory shall have the right to bring individuals to trial for membership therein before national military or occupation courts. In any such case, the criminal nature of the group or organization is considered proved and shall not be questioned."

In dealing with the SS the IMT treated as included therein all persons who had been officially accepted as members of any of the branches of said organization, except its so-called riding units. The Tribunal declared to be criminal those groups of said organizations which were composed of members who had become or remained such with knowledge that such groups were being used for the commission

of war crimes or crimes against humanity connected with the war, or who had been personally implicated as members of said organization in the commission of such crimes. Specifically excluded from the classes of members to which the Tribunal imputed criminality, however, were those persons who were drafted into membership by the State in such a way as to give them no choice in the matter and who had committed no such crimes and those persons who had ceased to belong to any of said organizations prior to 1 September 1939.

The IMT said:

"A criminal organization is analogous to a criminal conspiracy in that the essence of both is cooperation for criminal purposes. There must be a group bound together and organized for a common purpose. The group must be formed or used in connection with the commission of crimes denounced by the Charter. Since the declaration with respect to the organizations and groups will, as has been pointed out, fix the criminality of its members, that definition should exclude persons who had no knowledge of the criminal purposes or acts of the organization and those who were drafted by the State for membership, unless they were personally implicated in the commission of acts declared criminal by Article 6 of the Charter as members of the organization. Membership alone is not enough to come within the scope of these declarations."

Finally, the IMT made certain recommendations, from which we quote:

"Since declarations of criminality which the Tribunal makes will be used by other courts in the trial of persons on account of their membership in the organizations found to be criminal, the Tribunal feels it appropriate to make the following recommendations: . . .

"2. Law No. 10, to which reference has already been made, leaves punishment entirely in the discretion of the trial court even to the extent of inflicting the death penalty.

"The De-Nazification Law of 5 March 1946, however, passed for Bavaria, Greater-Hesse, and Württemberg-Baden, provides definite sentences for punishment in each type of offense. The Tribunal recommends that in no case should punishment imposed under Law No. 10 upon any members of an organization or group declared by the Tribunal

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to be criminal exceed the punishment fixed by the De-Nazification Law. No person should be punished under both laws."

For having actively engaged in the National Socialistic tyranny in the SS, the De-Nazification Law of 5 March 1946, for Bavaria, Greater-Hesse and Wurttemberg-Baden, fixes a maximum penalty of internment in a labor camp for a period of not less than two nor more than ten years in order to perform reparations and reconstruction work, against which political internment after 8 May 1945 may be taken into account. There are also provisions for confiscation of property and deprivation of civil rights.

In its Preliminary Brief the Prosecution says that "it seems totally unnecessary to anticipate any contention that intelligent Germans, and in particular persons who were SS members for a long period of years, did not know that the SS was being used for the commission of acts 'amounting to war crimes and crimes against humanity.....'" This assumption is not, in our judgment, a sound basis for shifting the burden of proof to a defendant or for relieving the Prosecution from the obligation of establishing all of the essential ingredients of the crime. Proof of the requisite knowledge need not, of course, be direct, but may be inferred from circumstances duly established.

Tribunal II in passing upon the question of the guilt of the Defendant Scheide on a charge of membership in the SS in the case of the United States v. Pohl, et al (Case No. 4), said:

"The defendant admits membership in the SS, an organization declared to be criminal by the Judgment of the International Military Tribunal, but the Prosecution has offered no evidence that the defendant had knowledge of the criminal activities of the SS, or that he remained in the organization after September 1939 with such knowledge, or that he engaged in criminal activities while a member of such organization.

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"Therefore, the Tribunal finds and adjudges that the Defendant Rudolf Scheide is not guilty as charged in Count IV of the indictment."

The Defendant Schneider was a sponsoring member of the SS from 1933 until 1945. As such member his only direct contact with said organization arose out of the payment of dues.

After quoting from that part of the IMT Judgment in which the matter of criminal responsibility for membership in the SS was discussed, Tribunal III in the case of the United States v. Alstötter, et al., (Case No. 3), transcript page 10906, in the course of its opinion said: "It is not believed by this Tribunal that a sponsoring membership is included in this definition." We are not disposed to disagree with that conclusion.

The membership records of the SS show that the Defendant Bueteffsch became an Ehrenführer (Honorary Leader) of that organization on 20 April 1939; that contemporaneously therewith he was promoted to the rank of Hauptsturmführer (Captain); that on 30 January 1941 he was made a Sturmbannführer (Major); and that he became an Obersturmbannführer (Lt. Colonel) on 5 March 1943. The same records disclose that said defendant was assigned initially to the Upper Sector Elbe, from 1 May to 1 November 1941 to the Personnel Branch of the Main Office, and after the last mentioned date to the SS Main Office proper.

In explanation of his connections with the SS, the Defendant detailed the following:

Soon after he became Deputy Manager of the Leuna Plant of Farben in 1934 he came into contact with one Kranefuss, the Executive Secretary of the Himmeler Circle of Friends and the Chairman of the Vorstand of BRABAG (the abbreviation for a corporation producing gasoline from lignite), whom the defendant had first come to know when they were schoolmates. During the years following the renewal of their contacts,

the defendant made frequent use of his personal relationship to Kranefuss and the latter's good offices in connection with business matters and, particularly, for the protection of certain Jews and other oppressed persons in the welfare of whom the defendant had become interested. Early in 1939 Kranefuss suggested to the defendant that intervention on behalf of politically oppressed persons would be much easier if the defendant should affiliate himself with the SS. To this the defendant replied that on account of his professional and personal convictions he could not subscribe to the membership oath, submit to the SS authority of command, attend its functions, or wear its uniform. The defendant says that he believed that this would put an end to the suggestion that he should affiliate himself with the organization but that, much to his surprise, Kranefuss advised him soon thereafter that he might be made an honorary member, with the reservations enumerated above. The defendant says that he thereby found himself confronted with an alternative which he did not anticipate, namely, that - losing the friendship of Kranefuss, which he had found most helpful in aiding the oppressed persons who were the direct objects of SS intolerance, or of accepting honorary membership, conditioned as aforesaid. He chose the latter course, and says that to the end he never took the SS oath, submitted to its authority of command, attended any of its functions, or owned or wore a uniform. When, after he became an honorary member, it was suggested to the defendant that he should procure a uniform for use on special occasions, Buetevisch pointed to the conditions that he had attached to his acceptance of membership and stood adamant. This resulted in a controversy with Kranefuss, in the course of which the defendant asked that his name be deleted from the list of SS rank holders. The defendant says, also, that his promotions and assignments were perfunctory and auto-

matic and made without instigation on his part. The record contains corroboration of the defendant's statements, and none of these are directly refuted by the Prosecution.

In the appraisal of the defendant's status in the SS, the Prosecution attaches much significance to his intimate relationship to Kranefuss and the latter's close affiliation with Himmler and his Circle of Friends. It appears that the defendant became a member of this Circle about the same time that he was made an honorary leader of the SS and that he was a regular attendant at the meetings of the Circle, including one occasion when the entire membership was the guest of Himmler at his field headquarters in East Prussia. Concerning these meetings of the Himmler Circle, Tribunal IV in Case 5 (U.S. v. Flick, et al.), after fully considering the character and activities of that group, including the part played by Kranefuss therein, said:

"We do not find in the meetings themselves the sinister purposes ascribed to them by the Prosecution So far we see nothing criminal or immoral in the defendants' attendance at these meetings. As a group (it could hardly be called an organization) it played no part in formulating any of the policies of the Third Reich."

The Prosecution calls attention to the fact, however, that the Circle of Friends contributed more than a million Reichmarks annually to the SS during each of the years 1941, 1942, and 1943, and that 100,000 of each of these gifts came from Farben, through the Defendants Schmitz and Buete-fisch. These facts, if established, would only be material to the charge here under consideration as tending to show, in connection with other facts, that Buete-fisch had knowledge of the criminal purposes or acts of the SS at the time he became or during the period that he remained a member -- if he was, in fact, a member. In other words, it is first necessary for us to determine whether the defendant was a member of the SS in the sense contemplated by the IMT when

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it held such membership to be criminal. Unless and until it is first ascertained that the defendant was a member in the accepted sense, we are unconcerned with the question as to whether he had knowledge of the criminal activities of the organization.

The exhaustive opinion of the Supreme Spruchkammer Court of Hamm, rendered in affirming the case in which Baron von Schroeder was convicted for honorary membership in the SS, has been cited and relied upon by the Prosecution. The factual distinction between the case with which we are presently concerned and that of von Schroeder is clearly disclosed by the opinion above referred to. In noticing the character of von Schroeder's relationship to the SS, the Supreme Spruchkammer Court said:

"At the Reich Party Meeting in 1936 he (von Schroeder) was told orally by Himmler that he had been accepted as an honorary member with the rank of Standartenfuhrer by the Allgemeine (General) SS.

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"The defendant after his acceptance into the Allgemeine SS as an honorary member received, as is admitted by the appellant, a membership number, paid regularly his membership dues, was promoted to SS Oberfuhrer in 1939 and SS Brigadefuhrer in 1941, showed up at special occasions wearing the uniform of his rank, although he never participated in any SS duties and was not assigned to any definite SS unit, but was registered with the Staff as an assigned leader."

As distinguished from von Schroeder, who appeared at special occasions in the uniform of his rank, the Defendant Bustefisch consistently refused to procure a uniform in the face of positive demands that he do so. This circumstance, when coupled with the other significant reservations which the defendant imposed and consistently maintained when and after he accepted honorary membership, would seem to place him in an entirely different category from that of von Schroeder.

We do not attach any special significance to the fact that the defendant was classified as an "honorary member," but we are of the opinion that the defendant's status in the organization must be determined by a consideration of his actual relationship to it and its relationship to him. Membership in an organization ordinarily involves, reciprocally, rights, privileges, and benefits accruing to the member from the organization and corresponding duties, obligations, and responsibilities flowing to the organization from the member. One of the advantages to be gained by an organization from having so-called honorary members is the added prestige accruing to it from having prominent personages identified with it. This point was emphasized by the Supreme Spruchkammer in dealing with von Schroeder, but even that benefit is negated here by the showing of the refusal of Buetevisch to attend the organization's functions or wear its insignia.

We are constrained to hold that the evidence does not establish beyond a reasonable doubt that the Defendant Buetevisch was a member of an organization declared to be criminal by the Judgment of the IMT.

The Defendant von der Heyde is the last person named in Count Four of the Indictment. He became a member of the Reitersturm (Riding Unit) of the SS in Mannheim in 1933, his serial number being 200,180. This is the group within the SS that the IMT declared not to be a criminal organization.

In 1936 the defendant moved to Berlin to become a member of the Economic Policy Department (WIPO) of Farben's NW-7 Office. The Prosecution contends that while he was in Berlin the defendant was an active member of the Allgemeine (General) SS, and it sought to establish that fact by documentary proof as follows:

1. An SS personnel file, indicating the defendant's number in that organization as 200,180 and entries to the

effect that he was promoted to 2nd Lieutenant on 30 January 1938, to 1st Lieutenant on 10 September 1939, and to Captain on 30 January 1941. Opposite the entry of the defendant's promotion to 2nd Lieutenant in 1938 is a notation to the effect that he was a "Fuehrer in the SD."

2. An SS Racial and Settlement questionnaire, filled out by the defendant, likewise giving his SS number as 200,180, his rank as a 2nd Lieutenant, his unit as "SD--Main Office," and his activity as "Honorary Collaborator of SD -- Main Office."

3. The defendant's written application for permission to marry (required of all members of the SS and also of the Wehrmacht) addressed to the Reich Chief of the SS on 6 May 1939. On this printed form were listed four classes of SS memberships, (not including the Riding Unit), and that of the General SS had been underscored, indicating, so the Prosecution says, that the defendant at the time regarded himself as a member of that group. This document also gave the defendant's membership number as 200,180, his unit as "SD--Main Office," and his superior as Colonel Six, a Department Chief in that office.

The defendant testified that when he left Mannheim for Berlin in 1936, he was placed on a leave status by the SS Riding Unit. He further said that he never thereafter paid dues to the Riding Unit, although he did pay party dues at Berlin, a part of which may have been diverted to the SS by party officials without his knowledge. He emphatically denied that he had ever affiliated, either directly or indirectly, with any SS group, other than said Riding Unit.

No responsibility is assumed by the defendant for the data shown on his SS personnel file produced by the Prosecution. He testified specifically that there was no basis in fact for the memoranda thereon showing that on 30 January 1938 he was a

"Fuehrer in the SD," and he ascribes this entry to an error or a false assumption on the part of the clerk who made or kept said record.

The defendant said that his progressive promotions from 2nd Lieutenant to Captain were automatic and customary in all branches of the SS, including the Riding Units, and that no inference of membership in a criminal organization can be drawn therefrom. Significance is attached to the circumstance that in all the documents relating to the defendant's SS affiliation his membership number is given as 200,180, that being the number originally assigned to him on his first Riding Unit membership card, issued at Mannheim early in 1934.

The defendant further stated on the witness stand that when, in the middle of the year 1939, he decided to marry, he made application for permission so to do through the Berlin office of the SS, rather than that at Mannheim, for two reasons, first, because he was then residing in Berlin and, secondly, because he believed that the granting of such permission would be delayed if he went through Mannheim. His counsel points out that this conclusion was justified, as is shown by the fact that it required approximately six months for him to obtain clearance through Berlin, even though he resided there and personally made application through that office.

By way of explaining how he came to give the SD--Main Office as his organization unit, Honorary Collaborator of SD--Main Office as his SS activity, and Colonel Six as his superior, on his R and S questionnaire, and in his formal application for permission to marry, the defendant has said that these constituted the SS offices, agencies, and persons with which he came in contact through his NW 7 activities at Berlin, and that he made use of this data in the hope that it would expedite approval of his marriage application. In any event, the defendant asserts that this memoranda is not inconsistent with his Riding Unit membership; nor does it support an in-

ference that he was a member of the SD, since it has been made to appear that a Riding Unit member could well have been accredited to and an honorary assistant of an SD—Main Office. This was corroborated by the testimony of the witness Ohlen-dorf, Chief of the SD, who, though he was convicted by it, was complimented by Tribunal II for his truthfulness on the witness stand.

In dealing with the SD, the IMT included "all local representatives and agents, honorary or otherwise, whether they were technically members of the SS or not," and concluded that said organization was criminal. In this case, however, von der Heyde is charged, specifically, with membership in the SS, not the SD, and the burden is on the Prosecution to establish that fact. There was no showing that membership in the SS was a necessary prerequisite to membership in the SD. The Judgment of the IMT indicates otherwise and treats these groups as separate, though related, organizations.

Taking into account that the only definitely established affiliation of the defendant was with the non-culpable Riding Unit of the SS and that the evidence tending to show that he subsequently became a member of the General SS arises wholly out of the innocuous incidents connected with his efforts to obtain a marriage license, we must conclude that the guilt of the Defendant von der Heyde under Count Four has not been satisfactorily established.

The Defendants Schneider, Buete-fisch and von der Heyde are acquitted of the charges contained in Count Four of the Indictment.

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By numerous objections and formal motions made during the course of the trial and in their final arguments and closing briefs several of the attorneys for defendants have questioned the validity of the laws, orders and directives by virtue of which this Tribunal was created and under which it has functioned. We have again given careful consideration to these matters and have satisfied ourselves that this Tribunal was lawfully organized and constituted, that it has jurisdiction over the subject matter of this proceeding and over the persons of the defendants before it, and that it is fully authorized and competent to render this Judgment.

FORMAL JUDGMENT AND SENTENCES

United States Military Tribunal VI having heard the evidence, the arguments of counsel, and the statements of the defendants, and having considered the briefs submitted by the parties, now renders Judgment and imposes sentences in Case No. 6, the United States of America vs. Carl Krauch, et al. It is accordingly considered, adjudged and decreed as follows, to wit:

The Defendant Carl Krauch is found Guilty under Count Three and Not Guilty under Counts One, Two and Five of the Indictment. For the offense of which he has been found guilty, the Tribunal sentences said defendant to imprisonment for six (6) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 3 September 1946 to the date of this Judgment, inclusive.

The Defendant Hermann Schmitz is found Guilty under Count Two, and Not Guilty under Counts One, Three and Five of the Indictment. For the offense of which he has been found guilty, the Tribunal sentences said defendant to imprisonment for four (4) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 7 April 1945 to the date of this Judgment, inclusive.

The Defendant Georg von Schnitzler is found Guilty under Count Two, and Not Guilty under Counts One, Three and Five of the Indictment. For the offense of which he has been found guilty, the Tribunal sentences said defendant to imprisonment for five (5) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 7 May 1945 to the date of this Judgment, inclusive.

The Defendant Fritz ter Meer is found guilty under Counts Two and Three, and Not Guilty under Counts One and Five of the Indictment. For the offenses of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for seven (7) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 7 June 1945 to the date of this Judgment, inclusive.

The Defendant Otto Ambros is found guilty under Count Three, and Not Guilty under Counts One, Two and Five of the Indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for eight (8) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 17 January 1946 to 1 May 1946, and from 13 December 1946 to the date of this Judgment, both inclusive.

The Defendant Ernst Buergin is found guilty under Count Two, and Not Guilty under Counts One, Three and Five of the Indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for two (2) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 23 June 1947 to the date of this Judgment, inclusive.

The Defendant Heinrich Bueteufisch is found guilty under Count Three, and Not Guilty under Counts One, Two, Four and Five of the Indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for six (6) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 11 May 1945 to the date of this Judgment, inclusive.

The Defendant Paul Haeffliger is found Guilty under Count Two, and Not Guilty under Counts One, Three and Five of the Indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for two (2) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 11 May 1945 to 30 September 1945 and from 3 May 1947 to the date of this Judgment, both inclusive.

The Defendant Max Ilgner is found Guilty under Count Two, and Not Guilty under Counts One, Three and Five of the Indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for three (3) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 7 April 1945 to the date of this Judgment, inclusive. Since said defendant has already been in prison for a period of time in excess of the penalty herein imposed, it is ordered that he be discharged upon the final adjournment of the Tribunal.

The Defendant Friedrich Jaehne is found Guilty under Count Two, and Not Guilty under Counts One, Three and Five of the Indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for one and one-half (1 1/2) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 18 April 1947 to the date of this Judgment, inclusive.

The Defendant Heinrich Oster is found Guilty under Count Two, and Not Guilty under Counts One, Three and Five of the Indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for two (2) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 31 December

1945 to the date of this Judgment, inclusive.

The Defendant Walter Duerrfeld is found Guilty under Count Three, and Not Guilty under Counts One, Two and Five of the Indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for eight (8) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 9 June 1945 to 17 June 1945, and from 5 November 1945 to the date of this Judgment, both inclusive.

The Defendant Hans Kugler is found guilty under Count Two, and Not Guilty under Counts One, Three and Five of the Indictment. For the offense of which he has been found guilty, the Tribunal sentences said defendant to imprisonment for one and one-half (1 1/2) years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 11 July 1945 to 6 October 1945, and from 18 April 1947 to the date of this Judgment, both inclusive. Since said defendant has already been in prison for a period of time in excess of the penalty herein imposed, it is ordered that he be discharged upon the final adjournment of the Tribunal.

The sentences imposed by virtue of this Judgment shall be served at such prison or prisons, or other appropriate place or places of confinement, as shall be determined by competent authority.

The Defendants Fritz Gajewski, Heinrich Hoerlein, August von Knieriem, Christian Schneider, Hans Kuehne, Carl Lautenschlaeger, Wilhelm Mann, Karl Wurster, Heinrich Gattineau and Erich von der Heyde are each acquitted of all the charges in the Indictment. They will each be dis-

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charged from custody upon the final adjournment of the Tribunal.

Curtis G. Shake
CURTIS G. SHAKE, Presiding Judge



James Morris
JAMES MORRIS, Judge

I have signed the Judgment
subject to reservations made
of record in the proceedings
of 30 July 1948.

Paul M. Herbert
PAUL M. HERBERT, Judge

Dated at Nurnberg, Germany this 29th day of July 1948.

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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

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UNITED STATES MILITARY TRIBUNALS NURNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 56**

ORDER AND JUDGMENT BOOK

**Judgment, German
Concurring, Dissenting Opinions of Judge Hebert
Commitment Papers
Orders of Mil. Gov. re Sentences**

Judgment of Tribunal, German, 29 July 48;
Opinion of Judge Hebert expressed in Open Session, 30 July 48

Bildung und Zusammensetzung des Gerichts:

Das Militärgericht VI der Vereinigten Staaten ist auf Grund der am 18. Oktober 1946 verkündeten Verordnung No. 7 von dem Militärgouverneur der amerikanischen Besatzungszone in Deutschland gebildet worden. Die Mitglieder des Gerichts sind von dem Präsidenten der Vereinigten Staaten durch Ausführungserlasse No. 9856 von 24. Juni 1947 und No. 9882 von 7. August 1947 ernannt worden; sie wurden unter der Bezeichnung "Militärgericht VI" durch die allgemeine Anweisung von EUCOM vom 9. August 1947 mit Wirkung von 8. August 1947 zusammengefasst. Am 12. August 1947 ist der vorliegende Fall von dem Supervisory Committee of Presiding Judges of the United States Military Tribunals in Germany (Praesidium der amerikanischen Militärgerichte in Deutschland) gemäss Artikel V der erwähnten Verordnung No. 7 diesem Militärgericht zur Hauptverhandlung zugewiesen worden.

Zuständigkeit:

Das Militärgericht leitet seine Zuständigkeit grundsätzlich vom Kontrollratsgesetz No. 10 her, das am 30. Dezember 1945 von den verantwortlichen Vertretern der Besatzungstruppen der Vereinigten Staaten, Grossbritannien, Frankreichs, und der Sowjet Union erlassen wurde. Nach ihrer Erklärung ist der Zweck des erwähnten Gesetzes, eine einheitliche gesetzliche Grundlage fuer die Strafverfolgung von Kriegsverbrechern und ähnlichen Missetatfern zu schaffen und der Moskauer Erklärung

von 30. Oktober 1943, dem Londoner Abkommen vom 8. August 1945 und dem auf Grund dieser Staatsverträge erlassenen Statut des Internationalen Militärgerichtes (im folgenden IMT genannt) Geltung zu verschaffen.

Die Anklage:

Das Verfahren hat am 13. Mai 1947 damit begonnen, dass der in gehöriger Form ernannte Chief of Counsel for War Crimes eine Anklageschrift beim Amt des Generalsekretärs eingereicht hat.

Die Anklageschrift besteht aus 5 Anklagepunkten. Sie ist nach Angabe ihres Verfassers unter Zugrundeliegung der Vorschriften des Artikels II des Kontrollratsgesetzes No. 10 ausgearbeitet. Im Anklagepunkt I werden die Angeklagten beschuldigt, durch Planung, Vorbereitung, Einleitung und Durchführung von Angriffskriegen und Invasionen anderer Länder Verbrechen gegen den Frieden begangen zu haben. Im Anklagepunkt II wird den Angeklagten zur Last gelegt, Kriegsverbrechen und Verbrechen gegen die Menschlichkeit dadurch begangen zu haben, dass sie an der Ausraubung von öffentlichem und privatem Eigentum in Ländern und Gebieten teilgenommen haben, die unter die kriegsgerichtliche Besatzung Deutschlands gekommen waren. Anklagepunkt III legt ihnen zur Last, Kriegsverbrechen und Verbrechen gegen die Menschlichkeit dadurch begangen zu haben, dass sie an der Verklavung der Zivilbevölkerung in Ländern und Gebieten teilgenommen haben, die von Deutschland entweder besetzt oder kontrolliert waren, und ebenso an der Einziehung dieser Zivilisten zur Zwangsarbeit; ferner, dadurch, dass sie an der Verklavung von Kon-/zentrationslagerinsassen innerhalb Deutschlands und an der Verwendung von Kriegsgefangenen bei Kriegshandlungen und rechtlich unzulässigen Arbeiten teilgenommen haben. Die Angeklagten werden auch der Misshandlung, Einschüchterung, Folterung und Ermordung der verklavten Menschen beschuldigt.

Anklagepunkt VIER legt den Angeklagten SCHNEIDER, BUETEFISCH, und VAN DER MEYDE die Mitgliedschaft in einer verbrecherischen Organisation zur Last. In Anklagepunkt FUEF werden die Angeklagten beschuldigt, sich an einer Verschwörung zur Begehung von Verbrechen gegen den Frieden beteiligt zu haben. Die Einzelheiten der Anklagepunkte werden in diesem Urteil der Reihe nach behandelt und in rechtlicher und tatsächlicher Hinsicht untersucht werden.

Die grundlegenden prozessualen Tatsachen:

Eine Abschrift der Anklageschrift in deutscher Sprache ist jedem Angeklagten

mindestens dreissig Tage vor der Schuldbefragung zugestellt worden. Alle Angeklagten mit Ausnahme von KARL BURSTER, CARL LAUTENSCHLAGER, und MAX BRUECKENHOF, die wegen Krankheit nicht anwesend waren, haben in offentlicher Verhandlung vom 14. August 1947 feierlich ihre Unschuld erklart. Spater haben die Angeklagten BURSTER und LAUTENSCHLAGER Erklarungen gleichen Inhalts abgegeben; das Verfahren gegen BRUECKENHOF ist abgetrennt und auf unbestimmte Zeit vertagt worden, da sein Gesundheitszustand seine Teilnahme an der Hauptverhandlung unmoglich machte. Die Anklageschrift und die Erklarung der Nichtschuld stellen die prozessualen Grundlagen fuer die Hauptverhandlung dar.

Die Hauptverhandlung:

Die Hauptverhandlung hat am 27. August 1947 begonnen; die Beweisaufnahme wurde am 12. Mai 1948 abgeschlossen. Als Vertreter der Anklagebehoerde traten 12 amerikanische Juristen unter der Fuehrung des Chief of Counsel for War Crimes auf. Jeder Angeklagte war durch einen Hauptverteidiger und einen Verteidigungsassistenten seiner eigenen Wahl vertreten, die saemtlich die Genehmigung des Gerichts zum Auftreten erhalten hatten und deutsche Rechtsanwaelte von anerkanntem Ruf und anerkannter Tuechtigkeit waren. Ausserdem hatten alle Angeklagten zusammen einen Spezialisten auf dem Gebiet des Voelkerrechts zu ihrer Verfuegung, den sie selbst ausgewaehlt hatten, ferner Sachverschaendige und einen Verwaltungsassistenten zur Unterstuetzung des Leiters der Verteidigung. Die Verhandlung wurde in Tage gleichzeitiger Uebersetzung ins Englische und ins Deutsche durchgefuehrt, elektrisch auf Tonfilme aufgenommen und ausserdem in Kurzschrift protokolliert. Die Protokolle eines jeden Verhandlungstages mit Abschriften der Beweisstuecke wurden dem Gericht, der Anklagebehoerde und der Verteidigung in den gewuenschten Sprachen zur Verfuegung gestellt. Die folgende Aufstellung zeigt den gressen Umfang der Akten:

	<u>Anklage- behörde</u>	<u>Verteidigung</u>	<u>zusammen</u>
eingereichte Dokumente (einschl. eidesstattlicher Erklärungen)	<u>2,282</u>	<u>4,102</u>	<u>6,384</u>
eingereichte eides- stattliche Erklärungen	<u>419</u>	<u>2,394</u>	<u>2,813</u>
vernommene Zeugen (einschl. der vor beauftragten Richtern angehörtten Zeugen)	<u>87</u>	<u>102</u>	<u>189</u>
Protokoll-Seiten (ohne Urteil)			<u>15,638</u>
Verhandlungstage (ohne die Vernehmungen vor beauftragten Richtern)			<u>152</u>

Zwischen dem 2. und 11. Juni 1948 hat die Anklagebehörde einen Verhandlungstag und die Verteidigung sechseinhalb Tage fuer die mündlichen Schlussvorträge in Anspruch genommen. Den Angeklagten sind je 10 Minuten gewährt worden, in denen sie dem Gericht eine Erklärung in eigener Sache ohne die Beschränkungen einer Aussage unter Eid abgeben konnten; vierzehn Angeklagte haben von diesem Recht Gebrauch gemacht. Sehr ausführliche Schriftsätze sind von beiden Beteiligten Seiten eingereicht worden.

Zwischenentscheidungen:

Zweckmässigerweise wird hier auf einige der wichtigeren Entscheidungen hingewiesen, die von dem Tribunal im Verlaufe der Hauptverhandlung erlassen worden sind.

(a) Artikel VII der Verordnung No. 7 der Militärregierung bestimmt, dass "die Tribunale alle Beweismittel zulassen haben, die nach ihrer Ansicht von Beweiswert sind", (z.B.) "Erklärungen unter Eid" und dass sie "der Gegenseite Gelegenheit zum Bestreiten der Echtheit oder des Beweiswerts solchen Beweismaterials insofern zu geben haben, als die Ziele der Gerechtigkeit dies nach Ansicht des Tribunals erforderlich machen." Unter den Möglichkeiten, die den Angeklagten in Artikel IV der erwähnten Verordnung zur Gewehrleistung eines gerechten Verfahrens gegeben sind, befindet sich das Recht, "jedem von der Anklagebehörde gestellten Zeugen ins Kreuzverhör zu nehmen". Das Tribunal hat daher entschieden, dass eidesstattliche Erklärungen als zulässiges Beweismaterial anzusehen sind mit der Massgabe, dass die Gegenseite das Recht hat, solche Erklärungen im Tage des Kreuzverhörs anzugreifen, falls ein Antrag auf Herbeiführung einer Zeugenaussage des Ausstellers gestellt war und der Aussteller zu diesem Zweck in den Gerichtssaal gebracht werden konnte; in Fällen, in denen der Zeuge nicht zur Verfügung gestellt werden konnte, hat das Tribunal der Gegenseite das Recht zur Vorlegung von eidesstattlichen Erklärungen der Aussteller als Mittel fuer den Gegenbeweis eingeräumt; statt dessen konnten auch

Fragebogen den Ausstellern zur Beantwortung übersandt worden; dies wurde als ausreichender Ersatz fuer das Kreuzverhoer angesehen. In den Faellen, in denen weder die Zeugen ins Kreuzverhoer genommen, noch eidesstattliche Erklarungen als Mittel fuer den Gegenbeweis beigebracht noch die Beantwortung von Fragebogen erreicht werden konnte, hat das Tribunal auf Antrag die urspruenglichen eidesstattlichen Erklarungen von der Zulassung als Beweismaterial ausgeschlossen. In logischer Durchfuehrung dieser grundsaeztlichen Entscheidung hat das Tribunal im Falle eines Widerspruchs auch die Zulassung von eidesstattlichen Erklarungen Verstorbenen abgelehnt.

(b) Waehrend des Vortrages ihres Beweismaterials hat die Anklagebehoerde eine Anzahl von Erklarungen als Beweisurkunden angeboten die von den Angeklagten vor der Einreichung der Anklageschrift abgegeben worden waren. Hiergegen ist mit der Begrueendung ^{auf diese Weise} Widerspruch erhoben worden, dass die betroffenen Angeklagten zur Abgabe einer Zeugenaussage gegen sich selbst gezwungen wurden und dass dies im Widerspruch zu den Grundprinzipien der fortschrittlichen Strafrechtswissenschaft stehe. Das Tribunal hat entschieden, (1) dass derartige Erklarungen, soweit sie freiwillig abgegeben waren, als belastende Gestandnisse zulaessig seien; dass aber (2) derartige Erklarungen, falls die Angeklagten, die sie abgegeben hatten, nicht als Zeugen in eigener Sache auftreten und sich dadurch einem Kreuzverhoer unterwerfen sollten, nicht als Beweismaterial gegen die anderen Angeklagten verwertet werden duerfen, dass vielmehr das Tribunal ihre Verwertung auf diejenigen Angeklagten beschraenken werde, die die fraglichen Erklarungen abgegeben hatten. In einem Falle hat das Tribunal die angebliche Erklarung eines Angeklagten von der Verwertung ausgeschlossen, nachdem dargetan worden war, dass der betreffende Angeklagte sich bei Abgabe der Erklarung unter Druck befunden hatte.

(c) Einem von der Verteidigung eingereichten Antrag entsprechend hat das Tribunal entschieden, dass es einen gemeinsamen Plan oder eine Verschwuerung zur Begabung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im Rechtssinne nicht geben kann, soweit es sich um derartige Verbrechen im Sinne der im Kontrollratsgesetz No. 10 gegebenen Begriffsbestimmung handelt. Gleichzeitig hat das Tribunal entschieden, dass die in den Abschnitten A und B des Anklagepunktes zwei beschriebenen Handlungen nach dem Gesetz nicht als Verbrechen gegen die Menschlichkeit angesehen werden koennen, da sie ausschliesslich in angeblichen Straftaten bestanden haben, die gegen das Eigentum gerichtet waren; diese Handlungen stellen auch keine Kriegsverbrechen dar, weil es sich um Vorfaelle handelt, die sich in einem Gebiet ereignet hatten, das nicht unter der kriegsrechtlichen Besetzung durch Deutschland stand.

Auf diese Entscheidung wird noch in dem Teil des Urteils Bezug genommen werden, der sich mit Punkt ZWEI der Anklageschrift beschäftigt.

(d) Während der Hauptverhandlung ist den Angeklagten gestattet worden, die erbeuteten I.G. Dokumente in dem Amt des Chief of Counsel for War Crimes einzusehen.

(e) Das Tribunal hat die Entscheidung über eine Anzahl von Anträgen abgelehnt, in denen Rechtsfragen aufgeworfen, und die Beweis kraft des vorgelegten Materials angegriffen wurde, da es der Ansicht war, dass derartige Fragen besser entschieden werden könnten, nachdem das Tribunal die ausendlichen Schlüsselausführungen und die Schriftsätze von Anklagebehörde und Verteidigung zur Kenntnis genommen sowie Zeit und Gelegenheit gehabt hatte, das Beweismaterial in seinem ganzen Ausmass noch einmal zu überprüfen. Diese Fragen werden nunmehr in dem vorliegenden Urteil entschieden.

Die I.G. als Werkzeug in den Händen der Angeklagten.

In den Anklagepunkten ZINS, ZWEI, DREI und FÜNF der Anklageschrift wird behauptet, dass "alle Angeklagten mittels der I.G. und auf sonstige Weise mit verschiedenen anderen Personen" die dort geschilderten Straftaten begangen hätten." Es ist ferner in den Anklagepunkten ZINS, ZWEI und DREI ausgeführt, dass die dort genannten Angeklagten Mitglieder von Organisationen oder Gruppen, z.B. der I.G., gewesen seien, die an der Begabung der erwähnten Verbrechen beteiligt waren."

Die Bezeichnung "I.G.", die in der Anklageschrift gebraucht wird, bezieht sich auf die INTERESSEGESELLSCHAFT DER FARBEINDUSTRIE AKTIENGESellschaft, fuer die die Abkürzung I.G.FARBEINDUSTRIE A.G. ueblicherweise gebraucht wird. Die Firma wird im deutschen Protokoll ueblicherweise als "I.G." und im englischen Protokoll als "Farben" bezeichnet.

Die I.G. ist im Jahre 1925 entstanden; damals hat die Badische Anilin- und Sodafabrik in Ludwigshafen ihren Firmennamen in die gegenwaertige Bezeichnung abgesendert und sich mit fuerf anderen fuerhrenden deutschen chemischen Konzernen verschmolzen. Schon seit 1904 hatten aber einige dieser Firmen auf Grund von Interessengemeinschaftsvertraegen gearbeitet,

und hatten im Jahre 1935 seinen Gemeinschaftsvertrag gebildet, um bis zu einem gewissen Grade eine gemeinsame Kontrolle über die Fertigung, den Verkauf, die Forschung, und die Verteilung der gemeinsamen Gewinne auszuüben. Im Jahre 1926 war die Verschmelzung mit einem Aktienkapital von 1,1 Milliarden Reichsmark durchgeführt, einer Summe, die dreimal so hoch war wie das Aktienkapital aller anderen deutschen chemischen Konzerne von einiger Bedeutung zusammengenommen.

Unter der Leitung von Dr. Carl DUISBERG, dem ersten Vorsitzenden des Aufsichtsrats, und von Dr. Carl BOSCH, der im Jahre 1935 sein Nachfolger in dieser Stellung wurde, erweiterte die I.G. stetig ihre Produktion und ihre Macht im Wirtschaftsleben. Im Jahre 1926 hatte die Firma 93 742 Angestellte und Arbeiter und einen Jahresumsatz von 1,209 Millionen Reichsmark. Bis zum Jahre 1942 hatte die Behagelung sich auf 187 700 Personen erhöht und der Umsatz auf 2,904 Millionen Reichsmark. Zur Zeit der Höchstbeschäftigung hat der Jahresumsatz der Firma drei Milliarden Reichsmark überstiegen.

Der I.G. gehörten 400 deutsche Firmen, und zwar ganz oder teilweise, und ungefähr 500 Firmen in anderen Ländern. Die I.G. kontrollierte mehr als 40 000 wertvolle Patente. Die Alltagsbehörde hat die I.G. "einen Staat im Staat" genannt.

Von ganz besonderer Bedeutung waren die Leistungen der I.G. auf dem Gebiete der chemischen Forschung und der praktischen Ausnutzung ihrer Entdeckungen. Von den vielen pharmazeutischen Produkten, die die I.G. entwickelt und durch ihren Vertriebsapparat gefördert hat, seien hier Aspirin, Kobrin und die Salvarsane erwähnt. Zwei ihrer Schutzmarken, das "Bayer-Kreuz" auf dem Gebiete der Heilmittel und "Agfa" für Photographie sind auf der ganzen Welt wohlbekannt. Auf dem Gebiete der Industrie wirkte die I.G. als Pionier bei der Vervollkommenung der verdichteten Verfahren, nach denen Farbstoffe, Methanol, Werkstoffe, Kunstfasern und Leichtmetalle in kaufmännisch tragbarer Größenerzeugung hergestellt wurden. Die Firma hat bei der Erfindung und Entwicklung der Verfahren zur Herstellung von Buna-Gummi, von Stickstoff aus der Luft und

von Benzin und Schmiermitteln aus Kohle eine ganz besonders bedeutende Rolle gespielt. Es sei hier daran erinnert, dass drei Nobelpreisträger Wissenschaftler der I.G. waren, und dass die Erzeugnisse der Firma neun Groesse Preise auf der Pariser Ausstellung von 1937 erhalten haben.

Ein Unternehmen von der Groesse und mit den verschiedenartigen Aufgabengebieten der I.G. erforderte notwendigerweise einen straff zusammengefassten und komplizierten Plan fuer die Konzernleitung. In dieser Stelle sollen nur die groben Umrisse gegeben werden; Einzelheiten werden im Zusammenhang mit bestimmten Gegenstaenden und Problemen spaeter erörtert werden.

Die Zahl der Aktionaere der I.G. belief sich auf ungefaehr eine halbe Million. Es gab eine jaehrliche Generalversammlung, an der ueblicherweise die Vertreter der finanziellen Interessen von Aktionaergruppen teilnahmen; dort wurden Berichte entgegengenommen und zur Abstimmung gebracht, Kapitalerhoehungen und Aenderungungen des Gesellschaftsvertrages genehmigt und Mitglieder des Aufsichtsrats gewaehlt.

Der Aufsichtsrat umfasste zur Zeit des Zusammenschlusses 55 Mitglieder; diese Zahl wurde aber im Jahre 1938 auf 23 und im Jahre 1940 auf 21 herabgesetzt. Dieses Organ war eine Art Uebersichtungsorgan, und seine Mitglieder sind ihren Aufgaben nach mit denjenigen des "Board of Directors" einer amerikanischen "Corporation" vergleichbar, die nicht dem "Executive Committee" angehoren und sich nicht aktiv an der Fuehrung der Geschaeftes des Unternehmens beteiligen. Nach deutschem Recht ernannte und entliess der Aufsichtsrat die Mitglieder des Vorstandes, berief ausserordentliche Generalversammlungen der Aktionaere ein und hatte das Recht, die Buecher und Geschäftspapiere der Firma einzusehen und zu praefen.

Der Vorstand, der dem "Executive Committee" eines "Board of Directors" aehnelt, hatte die tatsaechliche Verantwortung fuer die Fuehrung der Geschaeftes der Aktiengesellschaft und vertrat die Gesellschaft nach aussen. Zur Zeit des Zusammenschlusses der I.G. im Jahre 1925/26 hatte der Vorstand 82 Mitglieder, und die meisten Aufgaben waren einem Arbeitsausschuss von 26 Mitgliedern uebertragen. Im Jahre 1938 wurde der Vorstand auf eine Zahl von weniger als 30 Mitgliedern herabgesetzt und der Arbeitsausschuss beseitigt. Es gab ferner einen Zentralausschuss

innerhalb des Arbeitsausschusses; dieser blieb nach Abschaffung des Arbeitsausschusses bestehen. Der Vorstand trat in allgemeinen alle sechs Wochen zusammen; er hatte einen Vorsitzenden, der in mancher Hinsicht als leitender Geschäftsführer anzusehen ist, in anderer Beziehung aber nicht mehr war als ein primus inter pares.

Ausser den Aufgaben, fuer die die Mitglieder des Vorstandes die Gesamtverantwortung trugen, waren ihnen noch leitende Stellungen auf Spezialgebieten angewiesen, die sich generell in technische und kaufmannische Gruppen einteilen lassen. Es sei nur ganz kurz auf diese Abteilungen hingewiesen.

Der Technische Ausschuss (TEA) setzte sich aus den technischen Mitgliedern des Vorstandes und den leitenden Wissenschaftlern und Ingenieuren der I.G. zusammen. Er bearbeitete Fragen der Forschung und der Entwicklung von Verfahren, Erweiterung und Zusammenlegung von Fabrikationsstätten und Kreditanträge fuer derartige Zwecke. Unter ihm standen 36 Unterausschüsse auf dem Gebiete der Chemie und 5 auf dem Gebiete der Technik. Der Technische Ausschuss hatte ein Hauptverwaltungsbüro in Berlin, das sogenannte TEA-Büro, und die 5 technischen Unterausschüsse waren zusammengefasst in der sogenannten Technischen Kommission (TEKO).

Der Kaufmannische Ausschuss (KA) beschäftigte sich, zum Unterschied von dem Technischen Ausschuss, hauptsächlich mit Finanzfragen, Buchhaltung, Einkauf und Verkauf und wirtschaftspolitischen Problemen. Der Ausschuss bestand insgesamt aus ungefähr 20 Mitgliedern, unter denen sich ausser Vorstandsmitgliedern auch die Leiter der Verkaufsgemeinschaften und anderer Verwaltungstellen befanden.

Gemischte Ausschüsse: Koordinierte Zusammenarbeit zwischen dem Technischen und dem Kaufmannischen Ausschuss wurde erreicht durch besondere Dienststellen, die ihr Personal aus beiden Gebieten bezogen. Die wichtigeren unter diesen war der Chemikalien-Ausschuss, der Farben-Ausschuss und die Pharmazeutische Hauptkonferenz. Die zahlreichen Werke der I.G. wurden nach dem sogenannten Führerprinzip betrieben. Eine grössere Einheit stand üblicherweise unter der persönlichen Aufsicht eines Vorstandsmitglieds;

es kam aber auch vor, dass ein Vorstandsmitglied fuer mehr als eine Werkseinheit die Verantwortung trug und dass andererseits in anderen Werken eine Teilung der Verantwortung innerhalb eines Werkes stattfand; dies hing von der Art der Fertigung ab. Die Einheitlichkeit der grundlegenden Richtlinien der Leitung wurde dadurch erreicht, dass die Werke einerseits nach ihrer geographischen Lage und andererseits nach der in ihnen betriebenen Fertigung in Gruppen zusammengefasst wurden.

Die Betriebsgemeinschaften bildeten die Grundlage fuer die regionale Gleichordnung der Werke der I.G. Die vier urspruenglichen Gemeinschaften waren: Oberrhein, Maingau, Unterrhein und Mitteldeutschland. Im Jahre 1929 kam eine fuenfte hinzu, die den Namen "Betriebsgemeinschaft Berlin" erhielt. Die Betriebsgemeinschaften sorgten fuer Einheitlichkeit auf dem Gebiete der zentralen Verwaltung, des Transportwesens, der Vorratshaltung usw. in ihren Gebieten.

Die Sparten gewaehrten die Moeglichkeit, die Fertigung der I.G. nach Gesichtspunkten der Zusammengehoerigkeit der Erzeugnisse zweckentsprechend zu ordnen. Demgemuess umfasste die Sparte I Stickstoff, kunstliche Brennstoffe, Schmiermittel und Kohle; Sparte II umfasste Farbstoffe und deren Zwischenprodukte, Baux, Leichtmetalle, Chemikalien und Pharmazeutika; zu Sparte III gehoerten Kunstfasern, Zellulose und Collophan sowie photographische Artikel.

Verkaufsgemeinschaften wurden gebildet, um den Absatz der vier Hauptarten von Erzeugnissen der I.G. zu bearbeiten. In der Spitze einer jeden Gemeinschaft stand ein Vorstandsmitglied mit mehreren Vertretern. Es bestanden die Verkaufsgemeinschaft Farbstoffe, die Verkaufsgemeinschaft Chemikalien, die Verkaufsgemeinschaft Pharmazeutika und die Verkaufsgemeinschaft I.G.A. (photographische Artikel, Kunstfasern usw.)

Die Zentral-Finanzverwaltung (ZEFI) wurde im Jahre 1927 eingerichtet, und zwar in Verbindung mit einer Dienststelle, die den Namen Berlin VII 7 fuehrte. Hinzu traten im Jahre 1929 die Volkswirtschaftliche Abteilung und im Jahre 1933 die Wirtschaftspolitische Abteilung. Im Jahre 1935 kam dann noch ein Zentralbuero fuer die Verbindung mit der Wehrmacht hinzu, das die Bezeichnung Vermittlungsstelle II erhielt. Dieses Buero bearbeitete solche Angelegenheiten wie Mobilisationsfragen, militaerische Sicherheit, Abwehr, Geheimpatente und Forschung fuer die Wehrmacht.

Alle Sparten waren im leitenden Personal der Vermittlungsstelle vertreten.

Im Gegensatz zu der ablehnenden Einstellung des amerikanischen Rechts gegenüber einer zentralisierten Kontrolle sogar eine Mehrzahl von verwandten kaufmännischen Unternehmungen stand die Auffassung des deutschen Rechts, und in erheblichem Masse auch die der kontinentalen Rechtssysteme im allgemeinen, welche derartige Zusammenschlüsse begünstigten und manchmal ihre Bildung sogar erzwangen. Als Beispiele fuer diese Einstellung moegen die folgenden Angaben dienen:

Ein Konzern war eine Gruppe von rechtlich selbststaendigen Einheiten, die betrieblich unter einheitlicher Leitung standen. Die I.G. ist manchmal als Konzern bezeichnet worden, da sie eine Anzahl von rechtlich selbststaendigen Unternehmen umfasste.

Ein Kartell war eine auf Vertrag beruhende Verbindung von selbststaendigen Firmen zur Beseitigung des Konkurrenzkampfes und zur Marktregulierung. Die meisten Kartelle hatten internationalen Charakter, und manche erstreckten ihre Taetigkeit ueber die ganze Erde. Mehrere amerikanische Firmen gehoerten solchen Kartellen an, und die I.G. war an einer grossen Anzahl von Kartell-Abkommen beteiligt.

Ein Syndikat war eine oertlich mehr oder weniger begrenzte Verfeinerung des Kartell-Prinzips, durch die eine zentralisierte Kontrolle ueber Fertigungsquoten und Absatz einzelner bestimmter Erzeugnisse in Deutschland aufrecht erhalten wurde. Typisch fuer die Syndikate war das Stickstoff-Syndikat, dem die I.G. an fuehrender Stelle angehorte.

Zum Abschluss dieser kurzen Beschreibung der I.G. geben wir eine Aufzuehlung der wichtigsten Posten, die die einzelnen Angeklagten in der Firma innehatten, ferner eine Darstellung ihrer Verbindungen mit den verschiedenen politischen, staatlichen, technischen und beruflichen Organisationen und schliesslich Angaben ueber die Zeit, waehrend der die Angeklagten sich wegen des Verdachts der vor diesem Tribunal zur Aburteilung stehenden Straftaten in Haft befunden haben.

MEROS, Otto: Geboren am 19. Mai 1901 zu Weiden in Bayern. Professor der Chemie. Von 1938 bis 1945 Mitglied des Vorstands, des Technischen Ausschusses und des Chemikalien-Ausschusses; Vorsitzender von 3 I.G.-Ausschüssen auf chemischem Gebiet; Betriebsführer von 8 der wichtigsten Betriebe, darunter Buna-Auschwitz; Mitglied von Aufsichtsorganen in mehreren I.G.-Unternehmen, darunter Francolor.

Mitglied der Nationalsozialistischen Partei und der Deutschen Arbeitsfront; Wehrwirtschaftsführer; Sonderberater beim Leiter der Abteilung Forschung und Entwicklung beim Vierjahresplan; Leiter des Sonderausschusses "C" (Chemische Kampfmittel), der Hauptausschusses für Pulver und Sprengstoffe beim Rüstungsamt; Leiter einer Anzahl Organe der Wirtschaftsgruppe Chemische Industrie.

In Haft von 17. Januar 1946 bis 1. Mai 1946 und von 13. Dezember 1946 bis heute.

BUERGIN, Ernst: Geboren am 31. Juli 1885 zu Thyllen in Baden. Elektro-Chemiker. Von 1938 bis 1945 Mitglied des Vorstands; von 1937 bis 1945 Gastteilnehmer und Mitglied des Technischen Ausschusses; Leiter der Betriebsgemeinschaft Mitteldeutschland und Mitglied des Chemischen Ausschusses während der gleichen Zeit; Betriebsführer in Bitterfeld und Wolfen; Mitglied von verschiedenen I.G.-Aufsichtsorganen in Deutschland, Norwegen, Schweiz und Spanien.

Mitglied der NSDAP und der Deutschen Arbeitsfront, Wehrwirtschaftsführer, Mitarbeiter von Krauch beim Vierjahresplan; Vorsitzender von technischen Ausschüssen für gewisse wichtige Erzeugnisse in der Wirtschaftsgruppe Chemische Industrie.

In Haft von 23. Juni 1947 bis heute.

BUETEFISCH, Heinrich: Geboren am 24. Februar 1894 zu Hannover. Dr. Ing. (physikalische Chemie). Von 1934 bis 1938 stellvertretendes Vorstandsmitglied; von 1938 bis 1945 ordentliches Vorstandsmitglied; von 1931 bis 1938 Mitglied des Arbeitsausschusses, von 1932-1938 Gastteilnehmer beim Technischen Ausschuss; von 1938-1945 Mitglied des Technischen Ausschusses; von 1938 bis 1945 Vertreter des Leiters von Sparte I (unter Schneider); Leiter der Leuna Betriebe; Vorsitzender oder Mitglied von Aufsichtsgruppen vieler I.G.-Konzerne auf dem Gebiet der Chemikalien, Sprengstoffe und Kunststoffe,

sowie auf den Gebieten der Bergwerksindustrie usw. in Deutschland, Polen, Österreich, Tschechoslowakei, Jugoslawien, Rumänien und Ungarn.

Mitglied von Himmlers Freundeskreis; Mitglied der NSDAP und Deutschen Arbeitsfront, Obersturmbannführer in der SS; Mitglied des NSKK und NSFK; Mitglied des N.S. Bund Deutscher Technik; Mitarbeiter von Krauch beim Vierjahresplan; Produktionsbeauftragter für Öl im Rüstungsministerium; Präsident des Technischen Exporten-Ausschusses des Internationalen Stickstoffsyndikats, usw.

In Haft vom 11. Mai 1945 bis heute.

DIERCKZED, Walter: Geboren am 24. Juni 1899 zu Saarbrücken. Dr. ing. Nicht Mitglied des Vorstandes oder irgendwelcher Ausschüsse; von 1932 bis 1941 Chefingenieur bei den Leuna-Werken; von 1941 bis 1945 Prokurist bei der I.G. (eine Stellung, die der eines "attorney-in-fact" entspricht) und Direktor und Bauleiter für das Werk Auschwitz; von 1944 bis 1945 Direktor des Werkes Auschwitz.

Von 1937 bis 1945 Mitglied der NSDAP; von 1934 bis 1945 Mitglied der Deutschen Arbeitsfront; von 1932 bis 1945 Angehöriger des Nationalsozialistischen Fliegerkorps (Hauptsturmführer von 1943 bis 1945); von 1944 bis 1945 Bezirksbeamter für Oberschlesien bei der Wirtschaftsgruppe Chemische Industrie; erhielt das Eiserne Kreuz II. Klasse im Jahre 1918; das Kriegsverdienstkreuz II. Klasse im Jahre 1941 und das Kriegsverdienstkreuz I. Klasse im Jahre 1944.

In Haft vom 9. Juni 1945 bis 17. Juni 1945 und vom 5. November 1945 bis heute.

GAJEWSKI, Fritz: Geboren am 13. Oktober 1885 zu Pillau in Ostpreussen. Dr. phil. (Chemiker). Von 1931 bis 1934 stellvertretendes Vorstandsmitglied; von 1934-1945 ordentliches Vorstandsmitglied; von 1929-1938 Mitglied des Arbeitsausschusses, von 1933-1945 Mitglied des Zentralausschusses; von 1929-1945 Mitglied des Technischen Ausschusses (1. Stellvertreter des Vorsitzers von 1933-1945); von 1929-1945 Leiter von Sparte III; von 1931-1945 Leiter der Betriebsgemeinschaft Berlin; Betriebsführer der AGfa Betriebe; Direktionsmitglied bei zahlreichen anderen Tochter-Gesellschaften und Affiliationen, darunter der DAG.

Mitglied der NSDAP und der DAF; Mitglied des Nationalsozialistischen Bundes Deutscher Technik und des Reichsluftschutzbundes; Wehrwirtschaftsführer; Mitglied verschiedener Organisationen fuer Wissenschaft und Wirtschaft.

In Haft vom 5. Oktober 1945 bis heute.

GUTTENAU, Heinrich: Geboren am 6. Januar 1905 zu Bukarest in Rumänien als Sohn deutscher Eltern. Jurist. Nicht Mitglied des Vorstandes, aber Mitglied des Vorstandes des Arbeitsausschusses von 1932-1935 und des Südost-Europa-Ausschusses der I.G. von 1938-1945; von 1934-1938 Leiter der wirtschaftspolitischen Abteilung der I.G.; Leiter oder Mitglied von Aufsichtsorganen in einem Dutzend I.G.Unternehmungen und Tochter-Gesellschaften in Deutschland und Südost-Europa.

Von 1933-1934 Standartenführer bei der SA; von 1935-1945 Mitglied der NSDAP; von 1936-1945 feindliches Mitglied des NSKK; von 1936-1945 Mitglied der DAF und der NSV; Mitglied des Verbores der Deutschen Wirtschaft; Mitglied des Südost-Europa-Ausschusses der Wirtschaftsgruppe Chemische Industrie; Träger des Verdienstkreuzes I. und II. Klasse.

In Haft vom 11. Oktober 1945 bis 6. August 1946 und vom 11. Oktober 1946 bis heute.

HAEFLIGER, Paul: Schweizer Staatsangehöriger, geboren am 19. November 1886 zu Stoffelburg im Kanton Bern, Schweiz, Diplomkaufmann. Behielt seine Schweizer Staatsangehörigkeit bei und wirkte als Schweizer Titular-Konsul in Frankfurt von 1934-1938; erwarb die deutsche Staatsangehörigkeit im Jahre 1941 und gab sie im Jahre 1946 wieder auf. Von 1926-1938 stellvertretendes Vorstandsmitglied; von 1938-1945 ordentliches Vorstandsmitglied; von 1937 bis 1945 Mitglied des Kaufmännischen Ausschusses; von 1938-1945 Mitglied des Chemikalien-Ausschusses; von 1944-1945 stellvertretender Vorsitzender sowie Vertreter des Leiters fuer Metalle bei der Verkaufsgemeinschaft Chemikalien; Mitglied des Südost-Europa-, Ostasien- und Ostausschusses. Vorsitz oder Mitglied von Aufsichtsorganen bei mehreren I.G.Unternehmungen, darunter Konzernen in Deutschland, Oesterreich, Tschechoslowakei, Kroatien und Italien.

War nicht Mitglied der NSDAP, aber Mitglied der DAF.

In Haft von 11. Mai 1945 bis 30. September 1945 und von 3. Mai 1947 bis zum heutigen Datum.

VON DER HEIDE, Erich: Geboren am 1. Mai 1900 zu Hongkong in China als Sohn deutscher Eltern. Dr. phil. (Landwirtschaft). War niemals Mitglied des Vorstandes oder irgendwelcher Ausschüsse; von 1939-1945 Handlungsbevollmächtigter bei der I.G. (eine Stellung, die sich von der eines Prokuristen oder "general attorney-in-fact" unterscheidet); von 1936-1940 war er der Wirtschaftsplanungsabteilung der I.G. in Berlin NS 7 zugewiesen, 1938-1940 Abwehrbeauftragter für die Dienststelle Berlin NS 7, und eine kurze Zeit lang Schnelldienstvertreter als Leiter der I.G. Abwehrstelle beim OKW.

Von 1937-1945 Mitglied der NSDAP; von 1934-1945 Mitglied der DAF und Mitglied der Reiter-SS (Sturmführer von 1940-1945); von 1942-1945 war er der Rohrwirtschafts- und Rüstungsabteilung des OKW zugewiesen.

In Haft von 28. April 1947 bis heute.

HOERLEIN, Heinrich: Geboren am 5. Juni 1883 zu Endelsheim am Rhein in Hessen. Professor der Chemie. Von 1926-1931 stellvertretendes Vorstandsmitglied; von 1931-1945 ordentliches Vorstandsmitglied; von 1931-1938 Mitglied des Arbeitsausschusses; von 1933-1945 Mitglied des Zentralausschusses; von 1931-1945 Mitglied des Technischen Ausschusses (2. Stellvertreter des Vorsitzenden von 1933-1945); von 1930-1945 Vorsitzender der Pharmazeutischen Hauptkonferenz; Leiter des Werkes Elberfeld.

Mitglied der NSDAP und der DAF; Mitglied des Nationalsozialistischen Bundes Deutscher Technik; Mitglied des Reichsgesundheitsrates; Leiter oder Mitglied verschiedener wissenschaftlicher Vereinigungen.

In Haft von 16. August 1945 bis heute.

HAGER, Max: Geboren am 28. Juni 1899 in Biebsheim, Hessen. Dr. rer. pol. Von 1934-1938 stellvertretendes Mitglied des Vorstandes; von 1938-1945 ordentliches Mitglied des Vorstandes; von 1933-1938 Mitglied des Arbeitsausschusses; von 1937-1945 Mitglied des Kaufmännischen Ausschusses; von 1926-1945 Leiter des I.G. Bueros in Berlin Nr. 7; Vorsitz der Sudost-Ausschusses; Direktor des Buna-Werkes in Schkopau; stellvertretender Betriebsführer der Ammoniak Werke in Merseburg; Leiter oder Mitglied von Aufsichtsorganen bei 14 Konzernen in sieben verschiedenen Ländern, darunter American I.G. Chemical Corporation, New York.

Wurde 1937 Mitglied der NSDAP; Mitglied der D.F., des NSKK, des Nationalsozialistischen Reichskriegerbundes; Wehrwirtschaftsführer; Vorsitzender oder Mitglied von 7 beratenden Ausschüssen bei der Regierung; Leiter oder Mitglied von 41 Handelskammern und Wirtschaftsverordnungen, sowie von 21 Gesellschaften und Clubs in Deutschland und im Ausland; Inhaber von ein halb Dutzend Auszeichnungen aus dem ersten Weltkrieg, darunter des Eisernen Kreuzes und der Hessischen Tapferkeitsmedaille, ausserdem Träger von Orden und Auszeichnungen verschiedener anderer Staaten.

In Haft vom 7. April 1945 bis heute.

JENSE, Friedrich: Geboren am 24. Oktober 1879 zu Hous in Deutschland. Dipl. Ing. Von 1934 bis 1938 stellvertretendes Vorstandsmitglied, von 1938 bis 1945 ordentliches Vorstandsmitglied, Mitglied des Technischen Ausschusses, (Gastteilnehmer seit 1926); von 1938 bis 1945 stellvertretender Leiter der Betriebsgenossenschaft Mainau; Vorsitzender der Technischen Kommission der I.G.; Leiter der Ingenieur-Abteilung im Werk Hoechst; Mitglied von Aufsichtsräten mehrerer Unternehmen der I.G.

Mitglied der NSDAP und der D.F.; Wehrwirtschaftsführer; Mitglied des Grossen Rates bei der Reichsgruppe Industrie; Mitglied des Präsidiums des Deutschen Normenausschusses; Leiter des Technischen Ausschusses und der Berufsgenossenschaft der Chemischen Industrie.

In Haft vom 18. April 1947 bis heute.

VON KIERSTEN, August: Geboren am 11. August 1887 zu Riga in Lettland. Jurist. Von 1926-1931 stellvertretendes Mitglied des Vorstands; von 1931-1945 ordentliches Mitglied des Vorstandes und gelegentlicher Gastteilnehmer bei Sitzungen des Aufsichtsrats; von 1931-1938 Mitglied des Arbeitsausschusses; von 1938-1945 Mitglied des Zentralausschusses; von 1931-1945 Gastteilnehmer bei Sitzungen des Technischen Ausschusses; von 1933-1945 Vorsitzender des Fachausschusses und des Patentausschusses; wie er sich selbst nannte, "Chef-Syndikus" der I.G.; Mitglied des Aufsichtsrats mehrerer I.G.-Unternehmen und zweier holländischer Firmen in Haag.

Mitglied der NSDAP, der DAF, des Nationalsozialistischen Rechtswahrerbundes; Mitglied von 4 Ausschüssen und mehreren Unterausschüssen der Reichsgruppe Industrie, die Rechtsfragen, Patente, Warenzeichen, Marktordnung usw. bearbeiteten; Mitglied einer grossen Anzahl beruflicher Vereinigungen.

In Haft von 7. April 1945 bis heute.

KRÜGER, Carl: Geboren am 7. April 1887 zu Darmstadt, Deutschland, Dr. der Naturwissenschaften, Professor der Chemie. Mitglied des Vorstands und des Zentralausschusses; Mitglied und Vorsitzender des Aufsichtsrates von 1940-1945; Leiter von Sparte I von 1929-1938; Leiter der Berliner Vermittlungsstelle; Direktionsmitglied einer Anzahl grosserer I.G. Tochtergesellschaften und Affiliationen, darunter der Ford-Werke in Köln.

In April 1936 wurde ihm die Leitung der Forschungs- und Entwicklungsabteilung fuer Rohstoffe und Devisen in Goerings Stab uebertragen; im Oktober 1936 uebernahm er die Leitung der Forschungs- und Entwicklungsabteilung beim Amt fuer Deutsche Roh- und Werkstoffe im Vierjahresplan; von Juli 1938 bis 1945 Generalbevollmaechtigter fuer Sonderfragen der Chemischen Erzeugung; seit Dezember 1939 Leiter des Reichsamts fuer Wirtschaftsausbau im Vierjahresplan; von 1938-1945 Lehrwirtschaftsfuehrer; Mitglied des Direktoriums des Reichsforschungsrates.

Seit 1937 Mitglied der NSDAP; Mitglied des NSRN; Mitglied der DAF.

In Haft von 3. September 1946 bis heute.

KUEHNE, Hans: Geboren am 3. Juni 1880 zu Neudenburg/Deutschland.

Chemiker. Von 1926 - 1945 Mitglied des Vorstands und des Arbeitsausschusses bis 1938; von 1925-1945 Mitglied des Technischen Ausschusses; von 1933-1945 Leiter der Betriebsgemeinschaft Niederrhein; von 1926-1945 Mitglied des Chemikalien-Ausschusses; Betriebsführer des Werks Leverkusen; Leiter oder Mitglied des Aufsichtsrats zahlreicher I.G. Konzerne in Deutschland, und 2 solcher Konzerne in 5 anderen Ländern.

Wurde Mitglied der NSAP im Jahre 1933, aber kurz darauf ausgeschlossen und erst im Jahre 1937 wieder aufgenommen; Mitglied der DAF; Angehöriger von Beiräten bei Ministerialstellen der Reichs- und Landesregierungen mit wirtschaftlichen und handelspolitischen Aufgaben sowie solchen des Arbeitsmarktes.

In Haft vom 29. April 1947 bis heute.

KUNER, Hans: Geboren am 4. Dezember 1900 zu Frankfurt am Main.

Dr. rer. pol. War nicht Mitglied des Vorstandes; von 1926-1945 Prokurist (mit dem Titel eines Direktors); von 1934-1945 Mitglied des Kaufmännischen Ausschusses; von 1938-1945 zweiter stellvertretender Vorsitzender des Farberausschusses; von 1937-1945 Mitglied des engeren Farberausschusses; von 1943-1945 Mitglied der Koloristischen Kommission; von 1934-1945 Leiter der Verkaufsabteilung Farbstoffe fuer Ungarn, Amazonien, Jugoslawien, Tschechoslowakei, Oesterreich, Griechenland, Bulgarien, Türkei, das Nahen Osten und Afrika; von 1939-1945 Mitglied des Südost-Europa Ausschusses der I.G.; 1942-1944 Mitglied des Kaufmännischen Ausschusses von Francolor, Paris.

Von 1939-1945 Mitglied der NSVDF; von 1934-1945 Mitglied der DAF; von 1938-1939 Kommissar des Reichs-Wirtschafts-Ministeriums fuer die Ausig-Falkenau-Werke in der Tschechoslowakei sowie Leiter der erweckten Betriebe und Mitglied des Beirats des Aufsichtsrats von 1939-1945.

In Haft vom 11. Juni 1945 bis 6. Oktober 1945 und vom 10. April 1947 bis heute.

LUTRISCHLITZ, Karl: Geboren am 27. Februar 1866 zu Karlsruhe/Baden.

Dr. med., Dr. chem. ing., Professor der Pharmakologie, ehrenamtlicher Senator (Agent)

des Physiologischen Instituts der Universität Heidelberg und des Pharmakologischen Instituts der Universität Freiburg/Br. von 1931-1938 stellvertretendes Vorstandsmitglied; von 1938-1945 ordentliches Vorstandsmitglied, Mitglied des Technischen Ausschusses und Leiter der Betriebsgemeinschaft Heiningen; von 1926-1945 Mitglied des Pharmazeutischen Ausschusses; Betriebsführer der Hoechst-Werke; Teilnehmer an Pharmazeutischen, wissenschaftlichen und anderen Hauptkonferenzen der I.G.

Von 1938-1945 Mitglied der KSP; von 1934-1945 Mitglied der DAF; von 1942-1945 Mehrheitschaftsführer; Mitglied verschiedener wissenschaftlicher Forschungsorganisationen.

In Haft von 11. Dezember 1946 bis heute.

WAPP, Wilhelm: Geboren am 4. April 1894 in Tüppetal/Eberfeld. Diplomkaufmann. Von 1931-1934 stellvertretendes Vorstandsmitglied; von 1934-1945 ordentliches Vorstandsmitglied; von 1931-1936 Mitglied des Arbeitsausschusses; von 1937-1945 Mitglied des Kaufmannischen Ausschusses; von 1931-1945 Leiter der Verkaufsgemeinschaft Pharmazeutika; von 1926-1945 Mitglied der pharmazeutischen Hauptkonferenz; Vorsitzender des Gesele-Ausschusses; Leitendes Mitglied oder Angehöriger zahlreicher Aufsichtsorgane in I.G. Konzernen (darunter Vorsitz bei "DEGECK").

Mitglied der KSP; Angehöriger der SI mit dem Rang eines Sturmführers; Mitglied der DAF; Reichswirtschaftsrichter; Mitglied des Grossen Rates in der Reichsgruppe Industrie; Mitglied vieler wissenschaftlicher Organisationen.

In Haft von 19. September 1945 bis 16. Oktober 1945 und von 26. März 1947 bis heute.

TEFMEER, Fritz: Geboren am 4. Juli 1884, zu Dordingen/Wiederrhein. Dr. phil. (Chemiker) Von 1926-1945 Vorstandsmitglied; von 1926-1936 Mitglied des Arbeitsausschusses; von 1933-1945 Mitglied des Zentralausschusses; von 1926-1945 Mitglied des Technischen Ausschusses (Vorsitz von 1933-1945); von 1929-1945 Leiter der Sparte II; von 1936-1945 technischer Vertreter beim Farben-Ausschuss; Leitendes Mitglied oder Angehöriger von Aufsichtsorganen zahlreicher I.G. Unternehmen, Tochtergesellschaften und Affiliationen, darunter Francolor Paris, sowie von Konzernen in Italien, Spanien, Schweiz und den Vereinigten Staaten.

Mitglied der NSDP und der DAF; Wehrwirtschaftsführer;
Mitglied des NS Bundes Deutscher Technik; Beauftragter fuer Italien
des Reichsministeriums fuer Ruestung und Kriegsproduktion; Mitglied
der Wirtschaftsgruppe Chemische Industrie, in der er mehrere amtliche
Stellen und Titel inne hatte; Mitglied zahlreicher technischer und
wissenschaftlicher Organe.

In Haft von 7. Juni 1945 bis heute.

COTER, Heinrich: Geboren am 9. Mai 1878 zu Strassburg in Elsass.

Dr. phil. (Chemie). Von 1928-1931 stellvertretendes Vorstandsmitglied;
von 1931-1945 ordentliches Vorstandsmitglied; von 1929-1936 Mitglied des
Arbeitsausschusses; von 1937-1945 Mitglied des Kaufmannischen Ausschusses;
von 1930-1945 Geschäftsführer des Stickstoff Syndikats; Mitglied des
Gestaltungsausschusses und Leiter der Verkaufsgemeinschaft Stickstoff und
Gef. der I.G.; Mitglied verschiedener Aufsichtsorgane in Deutschland,
Österreich, Norwegen und Jugoslawien.

Mitglied der NSDP; Förderndes Mitglied des SS-Leitertums;
Mitglied der DAF; Leiter oder Mitglied verschiedener Abteilungen amtlicher
oder halbamtlicher Stellen. Im ersten Weltkrieg erhielt er das Eisernes
Kreuz und verschiedene Staatsauszeichnungen. Im zweiten Weltkrieg er-
hielt er den Kriegsverdienstkreuz.

In Haft vom 31. Dezember 1946 bis heute.

SCHITT, Hermann: Geboren am 1. Januar 1861 in Essen/Duhr.

Bankkaufmann, kein Doktor Titel. Von 1925-1945 Vorstandsmitglied;
von 1930-1945 Mitglied des Zentralausschusses; von 1935-1945 Vorsitz
des Vorstandes und Gestaltnehmer bei Sitzungen des Aufsichtsrats; von
1929-1940 Vorsitz des Vorstandes von I.G. Chemie in Dessau, Schmelz;
von 1937-1939 Chairman of the Board der American I.G. Chemical Corp.,
New York; Vorsitz des Aufsichtsrats von B.O. (früher Alfred Nobel u. Co.);
Mitglied des Aufsichtsrats der Friedrich Krupp A.G., Essen; Vorsitz
oder Mitglied von Aufsichtsorganen in mehreren anderen Tochtergesell-
schaften und Affiliationen des I.G. Konzerns.

Im Jahre 1933 wurde er Mitglied des Reichstages; Vorsitz des Nachrechnungsausschusses der Reichsbank; Mitglied des Direktoriums der Bank fuer Internationalen Zahlungsausgleich in Basel; Mitglied des Siebener-Ausschusses bei der Deutschen Golddiskontbank, Berlin; Mitglied oder Vorsitz von Aufsichtsorganen in mehreren anderen Finanzinstituten. Mitglied des Gutachter-Ausschusses fuer Rohstofffragen; Mitglied des Engeren Beirats der Reichsgruppe Industrie; Wirtschaftsfuehrer.

In Haft vom 7. April 1945 bis heute.

SCHWEINER, Christian: Geboren am 19. November 1887 zu Kulmbach/Regum.
Chemiker. Von 1926-1937 stellvertretendes Vorstandsmitglied; von 1936-1945 ordentliches Vorstandsmitglied und Mitglied des Zentralausschusses; von 1937-1938 Mitglied des Arbeitsausschusses; von 1929-1938 Gastteilnehmer bei Sitzungen des Technischen Ausschusses; ordentliches Mitglied von 1930-1945/ 1936-1945 Leiter der Sparte I; von 1937-1945 Hauptbetriebsfuehrer und Hauptabwehrbeauftragter der Vermittlungsstelle 4; Betriebsfuehrer der Amazoniswerke Hersburg; Leiter der Zentral-Perforierteileitung der I.G.; Mitglied von Aufsichtsorganen in mehreren I.G. Unternehmen.

Mitglied der NSDAP; Foerderndes Mitglied der SS; Mitglied der DAF; Mitglied des Beirats der Wirtschaftsgruppe Chemische Industrie; Mitglied des Sechsverständlichen-Ausschusses beim Reichstreuhänder der Arbeit.

In Haft vom 6. Februar 1947 bis heute.

VON SCHWITTLER, Georg: Geboren am 20. Oktober 1884 in Koeln.
Jurist. Von 1926-1945 Vorstandsmitglied;
; von 1926-1938 Mitglied des Arbeitsausschusses; von 1930-1945 Mitglied des Zentralausschusses; von 1929-1945 Gastteilnehmer beim Technischen Ausschuss; von 1937-1945 Vorsitz des Kaufmännischen Ausschusses; von 1930-1945 Leiter der Verkaufsgemeinschaft Farbstoffe; in verschiedenen Zeitabschnitten zwischen 1926 und 1945 war er Mitglied anderer I.G. Ausschüsse, usw.

Mitglied der NSDAP; Hauptsturmfohrer der SA; Mitglied der DAF; Mitglied des NSKK; Wirtschaftsfuehrer;

Mitglied des Grossen Rates der Reichsgruppe Industrie;
stellvertretender Vorsitzender der Wirtschaftsgruppe Chemische Industrie;
Vizepräsident des Schiedsgerichtshofes der Internationalen Handels-
kammer; Vorsitzender des Beraterates der Deutschen Wirtschaft; Vorsitzender des
Aufsichtsrates der Chemischen Werke Aussig-Falkenberg, Aussig in der
Tschechoslowakei; Mitglied des Aufsichtsrates der Francolor, Paris;
Leiter, oder Mitglied des Aufsichtsrates, von anderen I.G. Affiliationen
in Spanien und Italien.

In Haft vom 7. Mai 1945 bis heute.

WÜSTEN, Karl: Geboren am 2. Dezember 1900 zu Stuttgart. Dr. chem.
Eine kurze Zeit lang war er Assistent im Institut fuer Anorganische
Chemie und Chemische Technik am Stuttgarter Polytechnikum. Von
1938-1945 Vorstandsmitglied, Mitglied des Technischen Ausschusses
und des Chemikalien-Ausschusses; von 1940-1945 Leiter der Betriebs-
gemeinschaft Oberrhein; Vorsitzender der Anorganischen Kommission und
Betriebsführer der Oppau-Werke in Ludwigshafen; Mitglied des Aufsichts-
rates in verschiedenen I.G. Konzernen.

Mitglied der RSWF und der D.F.; Betriebswirtschaftsleiter;
Mitarbeiter RÜCKH's beim Vierjahresplan, Amt fuer Deutsche Roh- und
Werkstoffe; stellvertretender 2. Vorsitzender des Präsidiums der Wirt-
schaftsgruppe Chemische Industrie, und Leiter und Vorsitzender des Tech-
nischen Ausschusses dieser Wirtschaftsgruppe, Fachgruppe Schwefel- und
Schwefelverbindungen; Inhaber des Ritterkreuzes des Kriegsverdienst-
kreuzes.

In Haft vom 25. April 1947 bis heute.

AN KLAGEPUNKTE ZINS UND FUEHF

Die Anklagepunkte ZINS und FUEHF der Anklageschrift stuetzen sich auf dieselben Tatsachen und noetigen zur Auswertung des gleichen Beweismaterials. Deshalb werden diese zwei Anklagepunkte zusammen eroertert.

Anklagepunkt ZINS besteht aus 85 Ziffern. Der strafrechtliche Vorwurf ist in den Ziffern 1, 2 und 85 enthalten. Die anderen Ziffern geben eine Darstellung der tatsächlichen Einzelheiten. Wir zitieren die 3 Ziffern, die die Beschuldigungen enthalten:

"1. Alle Angeklagten nahmen mittels der I.G. und auf sonstige Weise mit verschiedenen anderen Personen waehrend eines Zeitraumes von Jahren vor dem 8. Mai 1945 an der Planung, Vorbereitung, dem Beginn und der Fuehrung von Angriffskriege und Einfaellen in andere Laender teil; diese Angriffskriege und Einfaelle stellten auch eine Verletzung des Voelkerrechts und internationaler Vertraege dar. Alle Angeklagten bekleideten hohe Stellungen im finanziellen, industriellen und wirtschaftlichen Leben Deutschlands und veruebten diese Verbrechen gegen den Frieden, wie sie im Artikel II des Kontrollratsgesetzes Nr.10 definiert sind, dadurch, dass sie als Thetor oder als Beihelfer bei der Begangung solcher Verbrechen mitgewirkt, sie befohlen, angestiftet, durch ihre Zustimmung daran teilgenommen, mit deren Planung und Ausfuehrung in Zusammenhang gestanden und Organisationen oder Vereinigungen, einschliesslich der I.G., angehört haben, die mit ihrer Ausfuehrung in Zusammenhang standen.

"2. Die Einfaelle und Angriffskriege, auf die im vorhergehenden Absatz Bezug genommen wurde, sind die folgenden: Gegen Oesterreich, 12. Maerz 1938; gegen die Tschechoslowakei, 1. Oktober 1938 und 15. Maerz 1939; gegen Polen, 1. September 1939, gegen Grossbritannien und Frankreich, 3. September 1939; gegen Dänemark und Norwegen, 9. April 1940; gegen Belgien, Holland und Luxemburg, 10. Mai 1940; gegen Jugoslawien und Griechenland, 6. April 1941; gegen Sowjetrussland, 22. Juni 1941; und gegen die Vereinigten Staaten von Amerika, 11. Dezember 1941.

"85. Die in diesem Anklagepunkt niedergelegten Handlungen und das Verhalten wurden von den Angeklagten gesetzwidrig, vorsätzlich und wesentlich begangen und stellen Verletzungen des Voelkerrechts, internationaler Vertraege, Abkommen und Zusicherungen und von Artikel II des Gesetzes Nr.10 des Kontrollrates dar.

Anklagepunkt FUEHF stuetzt sich auf die unter Anklagepunkt ZINS,

ZWEI und DREI aufgezählten Handlungen und erhebt die folgende Beschuldigung:

"146. Alle Angeklagten, zusammen mit verschiedenen anderen Personen, bedienten sich waehrend eines Zeitraumes von Jahren vor dem 8. Mai 1945 der I.G. und anderer Mittel, um als Fuehrer, Organisatoren, Instifter und Beihelfer an der Ausarbeitung und Durchfuehrung eines gemeinsamen Planes oder einer Verschwörung teilzunehmen, die zum Gegenstand hatten, Kriegsverbrechen im Sinne des Kontrollratsgesetzes Nr.10

zu begehen oder die solche Kriegsverbrechen in sich schlossen (darunter Handlungen, die Kriegsverbrechen und Verbrechen gegen die Menschlichkeit darstellten, die als wesentlicher Bestandteil solcher Verbrechen gegen den Frieden verübt wurden.) Die Angeklagten sind persönlich verantwortlich fuer ihre eigenen Handlungen und fuer alle Handlungen die von irgendwelchen anderen Personen in der Ausfuehrung dieses gemeinsamen Planes oder der Verschwörung verübt worden sind.

"147. Die Handlungen der Angeklagten, die in den Anklagepunkten I, II und III dieser Anklageschrift beschrieben sind, bildeten einen Teil dieses gemeinsamen Planes oder der Verschwörung, alles in jenen Anklagepunkten Gesagte wird zum Bestandteil auch dieses Anklagepunktes gemacht.

Nach Beendigung des Beweisvortrages der Anklagebehörde haben die Angeklagten den Antrag gestellt, das Gericht möge ueber die unter Anklagepunkt EINS und FUENF vorgebrachte Beschuldigungen und Einzelheiten eine auf Freispruch lautende Teilentscheidung erlassen. In diesem Antrag bezweifelten die Angeklagten, dass das Beweismaterial, das sich auf die in den angegriffenen Anklagepunkten vorgebrachten Straftaten bezog, ausreichend sei. Der hat damals beschlossen die Entscheidung ueber diesen Antrag bis zum Urteil auszusetzen. Das nun vorliegende Urteil wird sowohl das von der Anklagebehörde wie das von der Verteidigung vorgelegte Beweismaterial in seiner Gesamtheit erörternd damit auch endgueltig den erwachten Antrag erledigen. Das Kontrollratgesetz Nr. 10 wurde, wie in der Einleitung bemerkt, erlassen, "in die Bestimmungen der Moskauer Deklaration vom 30. Oktober 1943 und des Londoner Abkommens vom 8. August 1945 sowie des in Anschluss daran erlassenen Grundgesetzes zur Ausfuehrung zu bringen und um in Deutschland eine einheitliche Rechtsgrundlage zu schaffen, welche die Strafverfolgung von Kriegsverbrechen und anderen Missetaten dieser Art - mit Ausnahme derer, die von dem internationalen Militaergerichtshof abgeurteilt worden, ermoglicht." In Artikel 1 wurden die Moskauer Erklärung und Londoner Abkommen als untrennbare Bestandteile des Gesetzes festgelegt. Im Einklang mit dem so zum Ausdruck gebrachten Zweck des Gesetzes haben wir entschieden, dass das Kontrollratgesetz Nr. 10 nicht als Grundlage fuer einen Schuldspruch in Bezug auf ein Verhalten oder eine Handlung dienen kann, die nicht strafbar waren nach dem Recht, das zur Zeit der Verkuendung des Urteils in dem vom internationalen Militaergerichtshof abgeurteilten Falle gegen Hermann Wilhelm Goering und Gen. in Geltung war. Dieses wohlgedachte Urteil ist der grundlegende und ueberzeugende Praezedenzfall fuer alle darin entschiedenen Fragen.

Der Inklagepunkt VII in dem vom Internationalen Militärgerichtshof abgeurteilten Fall hat eine ausgesprochene Ähnlichkeit mit dem Inklagepunkt IINS in gegenwärtigen Fall. Der Inklagepunkt IINS in jenem Falle enthält unseren Inklagepunkt FÜNFF. Mit Bezug auf diese Inklagepunkte ausserte sich der Internationale Gerichtshof wie folgt:

"Inklagepunkt IINS erhebt die Beschuldigung des gemeinsamen Planes oder der Verschwörung. Inklagepunkt VII erhebt die Beschuldigung des Kriegsplanes und der Kriegsführung. Zur Unterstützung dieser beiden Inklagepunkte ist dasselbe Beweismaterial vorgelegt worden. Wir werden deshalb die beiden Inklagepunkte gemeinsam behandeln, da sie ihres Wesens nach gleich sind.

"Doch muss nach Ansicht des Gerichtshofes die Verschwörung in Bezug auf ihre verbrecherischen Absichten deutlich gekennzeichnet sein. Sie darf von Entschluss und von der Zeit zeitlich nicht zu weit entfernt sein. Soll das Planen als verbrecherisch bezeichnet werden, so kann das nicht allein von den in einem Parteiprogramm enthaltenen Erklärungen abhängen, wie sie in den im Jahre 1920 verkündeten 25 Punkten der Nazi-Partei zu finden sind, und auch nicht von den in späteren Jahren in "Mein Kampf" enthaltenen politischen Meinungsäußerungen. Der Gerichtshof muss untersuchen, ob ein konkreter Plan zur Kriegsführung bestand, und bestimmen, wer an diesem konkreten Plan teilgenommen hat.

"Es erübrigt sich zu erwägen, ob eine einzige Verschwörung in dem Ausmaße und während des Zeitraumes, wie sie die Inklageschrift darlegt, schlüssig bewiesen worden ist. Ein fortgesetztes Planen, das den Angriffskrieg zum Ziel hatte, ist über jeden Zweifel hinaus erwiesen worden.

"Der Gerichtshof wird daher die im Inklagepunkt IINS enthaltenen Anschuldigungen, dass die Angeklagten an einer Verschwörung beteiligt waren, um Kriegsverbrechen und Verbrechen gegen die Menschheit zu begehen, außer Acht lassen und lediglich den gemeinsamen Plan, Angriffskriege vorzubereiten, einzuleiten und durchzuführen, in Betracht ziehen."

In der Begründung des Urteils gegen die einzelnen Angeklagten auf Grund der unter Inklagepunkt IINS erhobenen Beschuldigung des gemeinsamen Planes oder der Verschwörung und der unter Inklagepunkt VII vorgebrachten Beschuldigung des Planens und Durchführung eines Angriffskrieges hat der Internationale Militärgerichtshof die folgenden Ausführungen gemacht:

KALFFPFUNER — angeklagt und nicht schuldig befunden unter Inklagepunkt IINS.

"Der Anschluss, obwohl er eine Angriffshandlung darstellt, wird nicht als Angriffskrieg ~~weggeworfen~~, und nach Ansicht des Gerichtshofes wird durch das unter Inklagepunkt IINS gegen Kaltenbrunner vorgelegte Beweismaterial seine unmittelbare Teilnahme an irgendeinem Plane zum Führen eines solchen Krieges nicht erwiesen.

FUNK — angeklagt und nicht schuldig befunden unter Inklagepunkt EINS.

"Das Beweismaterial konnte den Gerichtshof nicht überzeugen, dass FUNK mit dem Plan, Angriffskriege zu führen, eng genug verbunden war, um ihn gemäss Punkt EINS fuer schuldig zu erklæren."

FRIED — angeklagt unter Inklagepunkt EINS und 7. ZI. Nicht schuldig befunden unter Inklagepunkt EINS, schuldig befunden unter Inklagepunkt 7. ZI.

"Vor dem Angriff auf Oesterreich war FRIED nur mit der inneren Verwaltung des Reiches befasst. Das Beweismaterial ergibt nicht, dass er an einer der Besprechungen teilgenommen hatte, in denen HITLER seine Angriffsabsichten entwickelte, Infolgedessen nimmt der Gerichtshof den Standpunkt ein, dass FRIED kein Mitglied des gemeinsamen Plans oder der gemeinsamen Verschwörung zur Fûhrung eines Angriffskrieges gemäss der in diesem Urteil enthaltenen Begriffsbestimmungen gewesen ist.

In Erfûllung der ihm ubertretenen Pflichten baute FRIED eine entsprechende Verwaltungsorganisation auf. Nach seiner eigenen Angabe wurde diese Organisation tatsæchlich in Kraft gesetzt, nachdem sich Deutschland fuer eine kriegerische Politik entschieden hatte."

STERNER — angeklagt und nicht schuldig befunden unter Inklagepunkt EINS.

"Es liegt kein Beweis dafuer vor, dass er je zum inneren Kreis der Ratgeber HITLER's gehoert hat. Auch war er waehrend seiner Laufbahn nicht eng mit der Planung der Politik verbunden, die zum Krieg gefuehrt hatte. Zum Beispiel war er niemals bei einer der wichtigen Besprechungen zugegen, wenn HITLER seinen Fuehrern seine Entschliessung erklæarte. Obwohl er Gauleiter war, liegen keine Beweise dafuer vor, dass er von diesen politischen Plænen Kenntnis hatte. Nach Ansicht des Gerichtshofes wird die Verbindung mit der Verschwörung, so wie diese Verschwörung an einer anderen Stelle des Urteils umrissen ist, oder mit dem gemeinsamen Plan zum Fûhren des Angriffskrieges, durch das Beweismaterial nicht belegt."

FUNK — angeklagt unter Inklagepunkt EINS und 7. ZI. Nicht schuldig befunden unter Inklagepunkt EINS; schuldig befunden unter Inklagepunkt 7. ZI.

"FUNK war keine der Hauptpersonen bei der Nazi-Planung des Angriffskrieges. Seine Tætigkeit im Wirtschaftsleben unterstuetzt GOERING in dessen Eigenschaft als Generalbevollmaechtigtter fuer den Vierjahresplan. Er wirkte jedoch an den wirtschaftlichen Vorbereitungen gewisser Angriffskriege mit, vor allem an denen gegen Polen und die Sowjetunion. Ueber seine Schuld kann in ausreichender Weise unter Punkt 2 der Inklage dargelegt werden. Trotz der Tatsache, dass FUNK hohe Posten innehatte, war er doch nie eine dominierende Figur in den verschiedenen Programmen, an denen er mitwirkte. Dies ist ein Bildungsgrund, den der Gerichtshof in Erwægung zieht."

SCHUCHT — angeklagt und nicht schuldig befunden unter Inklagepunkt
EINS und 7 EI.

„Es ist klar, dass SCHUCHT eine Ventralfigur bei Deutschlands
Wiederaufbauprogramm darstellte, und die Massnahmen, die er
ergriff, besonders in den ersten Tagen des Nazi-Regimes, waren fuer
Nazi-Deutschlands schnellen Aufstieg als Militaermacht verantwortlich.
Obwohl die Aufruestung an sich ist nach dem Statut nicht verbrecherisch.
Wenn sie ein Verbrechen gegen den Frieden laut Artikel 6 des Statuts
darstellen sollte, so musste gezeigt werden, dass SCHUCHT dieses Auf-
ruestung als einen Teil des Nazi-Plans zur Fuehrung von Angriffskriegen
durchfuehrte.“

„SCHUCHT war bei der Planung der nach Inklagepunkt 2 besonders aufge-
fuehrten Angriffskriege nicht beteiligt. Seine Beteiligung an der
Besetzung Oesterreichs und des Sudetenlandes (die nicht in der Inklage
als Angriffskriege aufgefuehrt werden), war dorentig beschränkt, dass
sie nicht als Teilnahme an dem unter Inklagepunkt 1 genannten gemeinsamen
Plan zu bezeichnen ist. Es ist klar geworden, dass er nicht zu dem
inneren Kreis um HITLER gehoerte, der am engsten an diesem gemeinsamen
Plan beteiligt war.“

„DORITZ — angeklagt unter Inklagepunkt EINS und 2 EI, nicht schuldig
befunden unter Inklagepunkt EINS; schuldig befunden unter
Inklagepunkt 7 EI.“

„Obwohl DORITZ die deutsche U-Boot-Waffe aufgebaut und ausgebildet
hat, ergibt die Bewisaufnahme nicht, dass er in die Verschwörung zur
Fuehrung von Angriffskriegen eingeweiht war oder solche vorbereitete
und begann. Er war Peruseoffizier, der sein militaerische Aufgaben
erfuellte. Er war bei den wichtigsten Besprechungen, in denen Pläne
fuer Angriffskriege verhandelt wurden, nicht zugegen, und es liegt kein
Beweis dafuer vor, dass er ueber die dort getroffenen Entscheidungen
unterrichtet wurde. Nach Ansicht des Gerichtshofes ergibt die Bewis-
aufnahme, dass DORITZ an der Fuehrung von Angriffskriegen teilgenommen
hat.“

„VON SCHULICH — angeklagt und nicht schuldig befunden unter Inklagepunkt
EINS.“

„Trotz der kriegsaechnlichen Taetigkeit der Hitlerjugend hat es jedoch
nicht den Anschein, als ob von SCHULICH in die Ausarbeitung des
Hitlerischen Planes fuer territoriale Ausdehnung durch Angriffskriege
verwickelt war, oder als ob er an der Planung oder Vorbereitung irgend-
eines der Angriffskriege beteiligt war.“

„SAUCKEL — angeklagt und nicht schuldig befunden unter Inklagepunkt
EINS und 7 EI.“

„Das Bewismaterial hat den Gerichtshof nicht davon ueberzeugt, dass
SAUCKEL in einem solchen Umfang mit dem allgemeinen Plan zur Fuehrung
eines Angriffskrieges in Verbindung gestanden hatte oder in einem
solchen Umfang in Planung oder Fuehrung der Angriffskriege verwickelt
war, um den Gerichtshof zu veranlassen, ihn nach Inklagepunkt EINS
oder 7 EI zu verurteilen.“

VON PAPPEN — angeklagt und nicht schuldig befunden unter
Anklagepunkt XIIS und XII.

"Es liegen keine Beweise dafür vor, dass er an den Plänen, bei denen die Besetzung Österreichs einen Schritt in der Richtung weiterer Angriffshandlungen darstellte, teilgenommen hatte, oder gar, dass er an Plänen, Österreich, wenn notwendig, durch einen Angriffskrieg zu besetzen, beteiligt gewesen wäre. Da es aber nicht über jeden vernünftigen Zweifel hinaus feststeht, dass dies das Ziel seiner Tätigkeit war, so kann der Gerichtshof nicht dahin entscheiden, dass er an den im Anklagepunkt 1 bezeichneten gemeinsamen Plan, oder an der im Anklagepunkt 2 bezeichneten Planung von Angriffskriegen beteiligt gewesen ist."

SPEER — angeklagt und nicht schuldig befunden unter
Anklagepunkt XIIS und XII.

"Der Gerichtshof ist der Ansicht, dass die Tätigkeit Speers nicht darauf hinkielte, Angriffskriege einzuleiten, zu planen oder vorzubereiten, oder sich zu diesem Zwecke zu verschwören. Chef der Rüstungsindustrie wurde er lange nachdem alle Kriege bereits begonnen hatten und im Gange waren. Seine Tätigkeit diente, als ihm die deutsche Rüstungsproduktion unterstand, den Kriegsanstrengungen ebenso wie andere Produktionsunternehmen der Kriegsführung gedient haben. Der Gerichtshof ist jedoch nicht der Ansicht, dass eine solche Tätigkeit die Teilnahme an einem auf die Föhrung von Angriffskriegen im Sinne von Punkt 1 der Anklage gerichteten Plan darstellt, und auch nicht die Föhrung eines Angriffskrieges gemäss Punkt 2 der Anklage bedeutet."

FRITZSCHE — angeklagt und nicht schuldig befunden unter
Anklagepunkt XIIS.

"Wie galt er als wichtig genug, um zu den Planungsbesprechungen zugezogen zu werden, die zu Angriffskriegen föhrtcn: seine eigene und widersprochen gebliebene Aussage behauptet, dass er niemals selbst mit Hitler gesprochen habe. Auch liegt kein Material vor, das zeigt, dass er über die auf diesen Sitzungen getroffenen Entscheidungen unterrichtet war. Man kann nicht sagen, dass seine Tätigkeit unter die in diesem Urteil gegebene Definition eines gemeinsamen Planes zur Föhrung von Angriffskriegen fielle.... Sicher hat Fritzsche in seinen Rundfunkreden hier und da heftige Erklärungen propagandistischer Art gemacht. Der Gerichtshof nimmt jedoch nicht an, dass diese das deutsche Volk aufhetzen sollten, Grueseltaten an besiegten Völkern zu begehen, und man kann daher nicht behaupten, dass er an den Verbrechen, denen er beschuldigt ist, teilgenommen habe. Sein Ziel war, die Volkstimmung fuer Hitler und die deutsche Kriegsanstrengung zu erwecken."

BOHMANN — angeklagt und nicht schuldig befunden unter Anklagepunkt XIIS.

"Es liegen keine Beweise dafür vor, dass Bohmann von Hitlers Plänen, Angriffskriege vorzubereiten, einzuleiten und zu föhren, wusste."

Er wohnte keiner der wichtigen Besprechungen, auf denen Hitler Stueck fuer Stueck diese Angriffsplaene entwarf, bei. Man kann auch nicht ueberzeugend eine derartige Kenntnis aus den von ihm bekundeten Stellungen ableiten. Erst als er im Jahre 1941 Leiter der Parteikanzlei, und spaeter, im Jahre 1943, Sekretar des Fuehrers wurde, und dabei vielen Besprechungen Hitlers beizuohnte, gaben ihm diese Stellungen entsprechenden Zutritt. Beruecksichtigt man die an anderer Stelle besprochene Ansicht des Gerichtshofes ueber den Tatbestand der Verschwörung zur Fuehrung eines Angriffskrieges, dann reichen die vorliegenden Beweise nicht aus, um Bormann nach Inklagepunkt 1 schuldig zu erklaren.³

Aus dem Vorstehenden ergibt sich, dass der Internationale Militaergerichtshof grosses Vorsicht geuebt hat bei der Bejahung der Schuldfrage zumgunsten aller Angeklagten, gegen die die Beschuldigung der Teilnahme an einem gemeinsamen Plan oder einer Verschwörung oder der Planung und Durchfuehrung eines Angriffskrieges erhoben worden war. Das Gericht hat die Schuldfrage unter Inklagepunkt IHS und ZHI nur in den Faellen bejaht, in denen sowohl Kenntnis wie taetige Beteiligung zweifelsfrei bewiesen worden war. Kein Angeklagter ist wegen Teilnahme an dem gemeinsamen Plan oder der Verschwörung verurteilt worden, wenn er nicht, wie der Angeklagte Hess, mit Hitler so eng verbunden war, dass er notwendigerweise von Hitlers Angriffsplaenen gewusst haben musste, und entweder selbst bei der Ausfuehrung dieser Plaene taetig mitgewirkt, oder wenigstens einer der vier Geheimsitzungen beigewohnt hatte, bei denen Hitler seine Plaene fuer einen Angriffkrieg oeffnete. Das Urteil des Internationalen Militaergerichtshofes stellt fest, dass diese Sitzungen am 5. November 1937, am 23. Mai 1939, am 22. August 1939, am 23. November 1939 stattgefunden haben.

Man muss hier nicht vergessen, dass Hitlers oeffentliche Aeusserungen sich von seinen bei diesen Geheimsitzungen gemachten Enthuellungen wesentlich unterscheiden.

Allgemeine Kenntnis:

Während der Anfangsstadien des Prozesses hat die Inklagebehoerde geraume Zeit auf den Versuch verwendet, die Tatsache zu beweisen, dass in Deutschland schon laengere Zeit vor dem Ausbruch des Krieges Hitlers Angriffsplaene oeffentlich oder allgemein bekannt gewesen seien. Um dies zu beweisen, hat die Inklagebehoerde Auszuege aus dem Parteiprogramm der NSDAP und aus Hitlers Buch "Mein Kampf" vorgelegt.

Beweisstueck 4 der Inklagebehoerde stellt eine Zusammenfassung des Programms der NSDAP dar, das im Jahre 1941 im Nationalsozialistischen Jahrbuch veroeffentlicht wurde.

Dieses Programm ist am 24. Februar 1920 veröffentlicht worden und bis zum Jahre 1941 unverändert geblieben. Die Zusammenfassung besteht aus 25 Punkten. Wir zitieren diejenigen, die sich mit militärischen Plänen und - aussenpolitik befassen.

"Punkt 1. Wir fordern den Zusammenschluss aller Deutschen auf Grund des Selbstbestimmungsrechts der Völker zu einem Grossdeutschland."

"Punkt 2. Wir fordern die Gleichberechtigung des deutschen Volkes gegenüber den anderen Nationen, Aufhebung der Friedensverträge von Versailles und Saint-Germain."

"Punkt 3. Wir fordern Land und Böden (Kolonien) zur Ernährung unseres Volkes und Ansiedlung unseres Bevölkerungsaüberschusses."

"Punkt 12. Im Hinblick auf die ungeheuren Opfer an Gut und Blut, die jeder Krieg von Völkern fordert, muss die persönliche Bereicherung durch den Krieg als Verbrechen an Völkern bezeichnet werden. Wir fordern daher restlose Einziehung aller Kriegsgewinne."

"Punkt 22. Wir fordern die Abschaffung der Söldnertruppe und die Bildung eines Volksherares."

Zeit kriegerischer im Ton sind die Aussagen aus "Mein Kampf"; ihr Grundthema ist, dass die Grenzen des Reichs alle Deutschen umfassen müssten. Über dieses Buch schenkte sich der Internationale Militärgerichtshof wie folgt:

"Mein Kampf" ist nicht lediglich als eine literarische Übung zu betrachten, sondern es enthält es Richtlinien als starrer Politik oder einen unbedingten Plan."

"Seine Bichtigkeit liegt in der unmissverständlich aggressiven Haltung, die aus jeder Seite spricht."

Von diesem Buch wurden in Deutschland über 6 Millionen Exemplare verkauft. Wir müssen aber nicht vergessen, dass es von dem Politiker HITLER geschrieben worden war, bevor seine Partei zur Macht kam. Es steht im Einklang mit den Aussagen, die er in seinen engsten Kreisen von Vertrauten und Verschwörern getan hat, ist aber völlig unverträglich mit der grossen Anzahl seiner Aufrufe und Reden, die er als Oberhaupt des Reiches vor der Öffentlichkeit gehalten hat. Einige dieser Reden wollen wir nunmehr einer genaueren Betrachtung unterziehen.

Zwei Gedankengänge ziehen sich durch HITLERs öffentliche Äußerungen von seiner Machtergreifung an bis zum Jahre 1939. Der eine war die Furcht vor dem Kommunismus, der andere war seine Friedensliebe. Am 17. Mai 1933 betonte er ausdrücklich in seiner Rede vor dem deutschen Reichstag, dass die Anwendung von Gewalt als Mittel zur Verbesserung der Lebensbedingungen in Deutschland und Europa ungeeignet sei, und behauptete, dass eine solche Gewaltanwendung notwendigerweise zum Zusammenbruch der sozialen und politischen Ordnung und zum Kommunismus führen würde. Er sagte weiterhin: "Deutschland ist nun jederzeit bereit, auf Angriffsmächte zu verzichten, wenn auch die übrige Welt ihrer entsagt. Deutschland ist bereit, jeden feierlichen Nichtangriffspakt beizutreten, denn Deutschland denkt nicht an einen Angriff, sondern an seine Sicherheit!"

Am 14. Oktober 1933 verkündete HITLER den Austritt Deutschlands aus dem Völkerbund in einer Rundfunkrede, in der er die freundschaftlichen Absichten des Reichs und die Friedensliebe seiner Regierung wieder und wieder betonte. Viele ähnliche Redewendungen finden sich in seinen öffentlichen Äußerungen und Aufrufen bis zur Verkündung des Vier-Jahres-Plans.

Der Vier-Jahres-Plan, so schloß die Anklagebehörde aus dem Ergebnis der Beweisaufnahme, sei geschaffen worden, um Deutschland wieder aufzurüsten und zum Zwecke eines Angriffskrieges militärisch und wirtschaftlich aufzubauen; die Rolle, die die Angeklagten bei der Ausführung dieses Planes gespielt hätten, sei als ein gewichtiges Indiz anzusehen, das auf ihre freiwillige Teilnahme an HITLER's Angriffsplänen hindeute. Der Vier-Jahres-Plan wurde der deutschen Öffentlichkeit und der Welt durch die Rede bekannt, die HITLER am 9. September 1936 auf dem Nationalsozialistischen Parteitag in Nürnberg hielt. Zunächst erging er sich in übertriebenen Darstellungen über von Deutschlands Errungenschaften auf dem Gebiete der Wirtschaft seit seiner Machtergreifung.

Dann ging er dazu ueber, die Grundzuge eines anspruchsvollen Programms fuer die weitere Vordergesundung und Staerkung Deutschlands in den naechsten vier Jahren zu geben. Er erinnerte das Volk mit demagogischen Redensarten daran, dass er mit Hilfe deutscher Tuechtigkeit und durch die Entwicklung der chemischen Industrie, des Bergbaues und anderer Industriezweige, dem Volk schon vermehrte Beschaeftigungsmoeglichkeiten, bessere Landstrassen, mehr Kraftfahrzeuge, eine stabile Wahrung, gleichmaessigere Versorgung mit Nahrungsmitteln und erhoechte Erzeugung auf verschiedenen Gebieten gegeben habe. Er rechtfertigte die Verstaerkung der deutschen Wehrmacht damit, dass sie notwendig sei und nicht ausser Verhaeltnis zu den wachsenden Gefahren stehe, von denen Deutschland umgeben sei. Dann fuhr er fort:

"Das deutsche Volk aber hat keinen anderen Wunsch, als mit all denen, die den Frieden wollen und die uns in unserem eigenen Lande in Ruhe lassen, in Frieden und Freundschaft zu leben."

Am 30. Januar 1937 hielt HITLER in der Berliner Kroll-Oper eine Rede, in der er wiederum den Vierjahresplan eroerterte und ein Staedte-Expansionsprogramm fuer Berlin ankuendigte, ueber das er sich folgendermassen ausserte:

"Fuer die Durchfuehrung dieses Planes ist eine Zeit von 20 Jahren vorgesehen. Moege der allmaechtige Gott uns den Frieden schenken, um das gewaltige Werk in ihm vollenden zu koennen."

Am 12. Maerz 1938 erliess HITLER eine in starken Worten gehaltene Proklamation mit dem Ziele, den Anschluss Oesterreichs zu rechtfertigen. Er griff die oesterreichische Regierung unter Bundeskanzler Schuschnigg an; sie haette das Volk unterdrueckt und eine schwindelhafte Zahl angeordnet, die nur zum Buergerkrieg fuehren koenne; dies wolle er verhindern. Am 18. Maerz 1938 erliessen Kardinal Innitzer und die oesterreichischen Bischoefe von Wien aus eine feierliche Erklaerung, in der es hiess:

"Wir erkennen freudig an, dass die nationalsozialistische Bewegung auf dem Gebiet des voelkischen und wirtschaftlichen Aufbaues sowie der Sozial-Politik fuer das Deutsche Reich und Volk und namentlich fuer die aermsten Schichten des Volkes Hervorragendes geleistet hat und leistet. Wir sind auch der Ueberzeugung, dass durch das Wirken der nationalsozialistischen Bewegung

die Gefahr des alles zerstörenden gottlosen Bolschewismus abgewehrt wurde."

Daraus folgt, dass sogar hohe kirchliche Würdenträger selber Hitlers endgültige Ziele irreführt worden sind.

Nachdem Hitler Österreich fuer das Reich gesichert hatte, wandte er seine Aufmerksamkeit der Tschecho-Slowakei zu und brachte in steigendem Masse gegen dieses Land Druck zur Anwendung unter dem Vorwand, dass er die Sudetendeutschen aus ihrer angeblichen Unterdrückung durch die tschechoslowakische Regierung erretten wolle. Diese aggressive Haltung Hitlers fuhrte zum Münchener Abkommen vom 29. September 1938, in dem Deutschland einerseits und Gross-Britannien, Frankreich und Italien andererseits sich auf die Besetzung des Sudetenlandes durch deutsche Truppen und die Fortsetzung der Grenzen des Sudetenlandes durch eine internationale Kommission einigten. Am folgenden Tage, am 30. September, unterzeichneten Adolf Hitler und Neville Chamberlain die folgende gemeinsame Erklärung:

"Wir haben heute eine weitere Besprechung gehabt und sind uns in der Erkenntnis einig, dass die Frage der Deutsch-englischen Beziehungen von allererster Bedeutung fuer beide Laender und fuer Europa ist. Wir sehen das gestern abend unterzeichnete Abkommen und das deutsch-englische Flottenabkommen als symbolisch fuer den Wunsch unserer beiden Voelker an, niemals wieder gegeneinander Krieg zu fuehren. Wir sind entschlossen, auch andere Fragen, die unsere beiden Laender angehen, nach der Methode der Konsultation zu behandeln und uns weiter zu bemuehen, etwaige Ursachen von Meinungsverschiedenheiten aus dem Wege zu raumen, um auf diese Weise zur Sicherung des Friedens Europas beizutragen."

Am 6. Dezember 1938 unterzeichneten Georges Bonnet und Joachim von Ribbentrop als Aussenminister ihrer Laender eine deutsch-franzoesische Erklärung ueber ihre friedlichen und gutnachbarlichen Beziehungen. Bei der Veroeffentlichung dieser Erklärung betonte von Ribbentrop ihren Wert als Beitrag zur Ausgestaltung der friedlichen Beziehungen der beiden Laender.

Die Geschichte hat gezeigt, und wir wissen jetzt, dass Hitler keineswegs die Absicht hatte, sich mit den Vorteilen zu begnuegen, die ihm das Münchener Abkommen gewahrt hatte. Er wandte seine Aufmerksamkeit der Aufloesung der Tschechoslowakei zu. Am 14. Maerz trafen der Praesident und der Aussenminister der tschechoslowakischen Republik mit Goerring, von Ribbentrop, Keitel und anderen leitenden Personenlichkeiten des Reichs zusammen.

Unter der Bedrohung mit Invasion und Vernichtung ihres Landes unterzeichneten die tschechoslowakischen Minister ein Abkommen ueber die Eingliederung der ~~Rumpf~~-Tschechoslowakei in das deutsche Reich, und am 16. Maerz 1939 wurde ein Erlass veroeffentlicht, durch den das Reichsprotektorat Boehmen und Maehren geschaffen wurde. Um dieses Vorgehen dem deutschen Volk gegenueber zu rechtfertigen, setzte Hitler noch einige Zeit lang die systematische Propaganda gegen die Tschechen fort, als deren Grundlage, wie ueblich, die Furcht vor Russland diente. Die Tschechen wurden beschuldigt, mit Russland ueber den Bau und die Benutzung von Flugplaetzen und Luftstuetzpunkten auf tschechoslowakischem Gebiet verhandelt zu haben. Trotz alledem betonte Hitler auch weiterhin seine Friedensliebe und die Notwendigkeit, Vorsorge fuer die Verteidigung Deutschlands zu treffen.

Im Jahre 1939 schloss Hitler Nichtangriffspakte mit anderen europaeischen Laendern ab, die nach seiner Behauptung die Aufrechterhaltung des Friedens erleichtern sollten. Es folgte der deutsch-italienische gegenseitige Freundschafts- und Buendnisvertrag vom 22. Mai 1939, der deutsch-daenische Nichtangriffspakt vom 31. Mai 1939, ein Nichtangriffspakt zwischen dem deutschen Reich und der Republik Letland vom 7. Juni 1939 und ein aehnlicher Vertrag mit der Republik Litland von gleichen Tage. Am 23. August 1939 schlossen Deutschland und die Union der Sozialistischen Sowjet-Republiken gleichfalls einen Nichtangriffspakt ab. Alle diese Abkommen wurden veroeffentlicht; ihrem Lesen nach waren sie eher dazu angetan, die Angriffsabsichten Hitlers und seiner naechsten Umgebung zu verschleiern als sie zu enthullen.

Wie war es nun mit Polen? Im April 1939 erliess Hitler an das Oberkommando genaue Anweisungen zur Vorbereitung eines Krieges gegen Polen. Andererseits erklarte er in einer Reichstagsrede am 28. April 1939:

"Ich habe diese mir unversaendliche Haltung der polnischen Regierung aufrichtig bedauert, jedoch das allein ist nicht das Entscheidende, sondern das Schlimmste ist, dass nunmehr, aehnlich wie die Tschechoslowakei vor einem Jahr, auch Polen glaubt unter dem Druck verlogener Walthotzo Truppen einberufen zu muessen, obwohl Deutschland seinerseits ueberhaupt keinen einzigen Mann eingezogen hat und nicht daran dachte, irgendwie gegen Polen vorzugehen die Deutschland von der Weltpresse einfach angedichtete Angriffsabsicht"

Auf diese Weise fuehrte er auch weiterhin die Oeffentlichkeit ueber seine wahren Absichten irre. Er wingte die Oeffentlichkeit in den Glauben, dass er immer noch der Ansicht sei, Polen und Deutschland koennten harmonisch zusammenwirken - eine Ansicht, die er am 20. Februar 1938 vor dem Reichstag folgendermassen zum Ausdruck gebracht hatte:

"So gelang es, den Weg fuer eine Verstaendigung zu ebnen, die, von Danzig ausgehend, heute trotz des Versuchs mancher Stoerungsfriede das Verhaeltnis zwischen Deutschland und Polen endgueltig zu entgiften und in ein aufrichtig freundschaftliches Zusammenarbeiten zu verwandeln vermochte. Deutschland wird jedenfalls, gestuetzt auf seine Freundschaften, nichts unversucht lassen, um jenes Gut zu retten, das die Voraussetzung fuer jene Arbeiten auch in der Zukunft abgibt, die uns vorschweben: den Frieden."

Zwar moegen Leute mit Einblick in die boesaartigen Machenschaften der Machtpolitik Hitler verdachtigt haben, dass seine Massnahmen zur angeblichen Befriedung des ruhelosen Europa nichts als gerissene Tauschungsmanoever seien; dem durchschnittlichen deutschen Buenger, sei er Akademiker, Bauer oder Industrieller, kann auf Grund dieser Ereignisse schwerlich die Kenntnis davon unterstellt werden, dass die Beherrscher des Reichs planten, Deutschland in einen Angriffskrieg zu stuerzen.

In dieser Zeit haben Hitlers Untergebene in ihren Reden gelegentlich mit dem Saebel gerasselt. Aber auch derartige Aeusserungen koennen nur durch weitergeholte, nachtraeglich gezogene Schlussfolgerungen mit dem Plan fuer einen Angriffskrieg in Zusammenhang gebracht werden. Im vorliegenden Falle kommt es auf die Frage an, ob Hitlers Plan und Absicht, einen Angriffskrieg zu fuehren, allgemein bekannt war. Hitler war der Diktator. Es war nur natuerlich, dass das deutsche Volk seine Reden anhoerte und las in dem Glauben, dass er die Wahrheit gesprochen habe.

Es wird geltend gemacht, dass nach den Ereignissen in Oesterreich und in der Tschechoslowakei jeder vernuenftige Mensch hatte wissen muessen, dass Hitler einen Angriffskrieg beabsichtigte, wenn er auch nicht gewusst haben mag, welches Land angegriffen werden oder wann der Angriff beginnen sollte.

Diese Auffassung ist nicht begründet. HITLER's Vorgehen in Oesterreich und in der Tschechoslowakei hatte, so war förmlich erklärt worden, das Ziel gehabt, das Deutsche Volk in einem Reich zu vereinigen. Dieses Ziel fand in der Öffentlichkeit allgemeinen Beifall. Durch die bloße Drohung mit der gegenseitigen Faust, aber ohne Krieg hatte HITLER seine Erfolge erzielt. In den Augen seines Volkes hatte er große und gerechte diplomatische Siege errungen, ohne den Frieden zu gefährden. Für diese seine Auffassung fand der gemeine Mann die Bestätigung in dem Münchener Abkommen und in den verschiedenen Nichtangriffsverträgen und Staatsverträgen, die diesem folgten. Die Staatsmänner anderer Länder haben Abkommen mit HITLER abgeschlossen und dadurch nicht nur ihre Anerkennung dieser diplomatischen Erfolge, sondern gleichzeitig auch ihr Vertrauen auf HITLER's Wort zum Ausdruck gebracht. Können wir behaupten, dass der gemeine Mann in Deutschland weniger vertrauensvoll war?

Vir kommen daher zu der tatsächlichen Feststellung, dass in Deutschland die Kenntnis von HITLER's Absichten nicht allgemein verbreitet war, und zwar weder mit Bezug auf seinen allgemeinen Plan für einen Angriffskrieg, noch mit Bezug auf Einzelpläne für die Angriffe auf einzelne Länder, die mit der Invasion in Polen am 1. September 1939 ihren Anfang nahmen.

Persönliche Kenntnis:

Man muss von der Tatsache ausgehen, dass ein Plan oder eine Verschwörung zur Föhrung von Angriffskriegen wirklich bestanden hat. Es war in erster Linie HITLER's Plan, an dessen Ausarbeitung und Durchführung eine Anzahl Personen mitwirkten, die besonders enge Verbindung mit dem Diktator hatten und sein Vertrauen genossen. Der Plan war geheim.

Er bestand zunächst nur in allgemeinen Umrissen und wurde erst später in seinen Einzelheiten ausgearbeitet. Dies ist durch unstrittige Tatsachen erwiesen. Das Ziel des Planes war, Deutschland zur herrschenden Militär- und Wirtschafts-Macht in Europa zu machen und zwar zunächst durch streitbare Diplomatie und schließlich durch Eroberung. Das zuerst bestehende, war mehr ein Ziel als ein in allen Einzelheiten vollständig plan. Von Zeit zu Zeit setzte der Plan dann Treibe an - die

Einzelpläne für die Eroberungen.

Es ist nicht festzustellen, wann HITLER zuerst seinen allgemeinen Angriffsplan gefasst oder mit wem er ihn zuerst erörtert hat. Eine endgültige Enthüllung erfolgte bei einer geheimen Besprechung am 15. November 1937. Anwesend waren: Oberstleutnant ROSSFELDER,

HITLER's persönlicher Adjutant; GOERING, Oberbefehlshaber der Luftwaffe; von FRUTH, Reichsaussenminister; TRENK, Oberbefehlshaber der Marine; General von HALDER, Kriegsminister; General von FRITZ, Oberbefehlshaber des Heeres. Auf diese Besprechung folgten andere geheime Konferenzen von besonderer Bedeutung am 23. Mai 1939, 22. August 1939 und 23. November 1939. Drei der Besprechungen liegen also zeitlich früher als die Invasion von Polen. Bei keiner dieser Besprechungen waren die Angeklagten zugegen.

Um die Angeklagten gemäss Anklagepunkt XIIS oder FUEHF oder gemäss beiden Anklagepunkten wesentlich oder einzeln schuldig zu sprechen mit der Begründung, dass sie an der Planung, Vorbereitung oder Entfesselung von Angriffskriegen oder Invasionen sich beteiligt hätten, müsste tatsächlich festgestellt werden, dass sie entweder Teilnehmer an dem Plan oder der Verschwörung gewesen sind, oder dass sie als Mitwisser des Plans seine Ziele und Zwecke durch Mitwirkung an der Vorbereitung fuer den Angriffskrieg gefordert haben. Zur Beantwortung dieser Frage müssen die aus den Akten ersichtlichen grundlegenden Tatsachen einer Betrachtung unterzogen werden. Hierzu gehören die Posten, die die Angeklagten in der Regierung innehatten, soweit dies überhaupt der Fall war, ihr Zuständigkeitsbereich, der Umfang ihrer Verantwortlichkeit und ihre Tätigkeit in diesen Stellungen ebenso wie ihre Posten und ihre Tätigkeit innerhalb und fuer die I.G.

Bei der Würdigung des Ergebnisses der Beweisaufnahme und bei der endgültigen Feststellung der fuer Schuld oder Unschuld eines jeden Angeklagten entscheidenden Tatsachen werden wir bestrbt, die folgenden Grundsätze des Anglo-amerikanischen Strafrechts anzuwenden:

1. Eine Verurteilung ist nicht möglich, solange persönliche Schuld nicht nachgewiesen ist.
2. Die Schuld muss mit einer an Sicherheit grenzenden Wahrscheinlichkeit nachgewiesen werden.
3. Zugunsten jedes Angeklagten besteht die Vermutung seiner Unschuld, und diese Vermutung verbleibt ihm während der ganzen Dauer des Verfahrens.
4. Die Beweislast trägt immer die Anklagebehörde.
5. Wenn glaubwürdiges Beweismaterial zwei logische Schlussfolgerungen zulässt, von denen eine zur Annahme der Schuld und die andere zur Annahme der Unschuld führen würde, dann muss die letztere den Vorrang haben. (Urteil des Amerikanischen Militärtribunals IV, Nürnberg, Deutschland, in Sachen der Vereinigten Staaten von Amerika gegen Friedrich FLICK und Genossen, Fall V).

Bei der Abwägung der vielen, aus dem uns vorliegenden, ausserst umfangreichen Protokoll ersichtlichen Widersprüche im Beweisergebnis, sowie der Vielfalt der Tatsachen, aus denen Schlussfolgerungen gezogen werden könnten, haben wir den gefährlichen Fehler zu vermeiden versucht, das Verhalten der Angeklagten ausschliesslich von der Gegenwart aus zu betrachten. Im Gegenteil, wir haben uns bemüht, auf Grund der Lage, so wie sie ihnen damals erschien oder hätte erscheinen müssen, ^{auf} ihre Kenntnis, ihren Seelenzustand und ihre Motive zu schliessen.

Die Anklagebehörde hat Karl KAUCH als den Hauptangeklagten in diesem Falle bezeichnet, der sowohl bei der Registrierung wie in I.G. Konzern wichtige Posten innehatte.

Die I.G. als juristische Person wird in der Anklageschrift keines Verbrechens beschuldigt und ist in diesem Prozess nicht unter Anklage, die Anklagebehörde steht vielmehr auf dem Standpunkt, dass die Angeklagten einzeln und gemeinsam die Organisation der I.G. als ein Werkzeug gebraucht hätten, mit dessen Hilfe die in der Anklageschrift aufgezählten Verbrechen begangen worden seien. Alle die Mitglieder des Vorstands oder der Geschäftsführenden Organe der I.G., die diese Stellungen zur Zeit des Zusammenbruchs Deutschlands innehatten sind angeklagt und vor Gericht gestellt worden. Das Gericht hat entschieden, dass der Gesundheitszustand des Max BAUGGEMANN es nicht erlaubte, ihn als Angeklagten in diesem Verfahren zu belassen und hat durch eine entsprechende Entscheidung das Verfahren gegen ihn von dieser Sache abgetrennt. Alle anderen Vorstandsmitglieder sind in diesem Prozess angeklagt. Die Angeklagten DUESFELD, GUTHRIE, von der HEIDE und KULER waren nicht Mitglieder des Vorstandes, hatten aber wichtige Stellungen in I.G. Konzern inne.

Vern wir den Angeklagten KAUCH in den nun folgenden Erörterungen in den Vordergrund stellen, so geschieht das, weil die Anklagebehörde während des ganzen Verfahrens das gleiche getan hat und ihn offensichtlich auf Grund seiner beruflichen Beziehungen zu beiden Seiten

als das Bindeglied zwischen der I.G. und dem Reich betrachtet.

KAUCH wurde im Jahre 1939 Vorstandsmitglied und behielt diese Stellung, bis er im Jahre 1940 Mitglied des Aufsichtsrats wurde.

Von 1929 - 1938 war er Leiter der Sparte I.

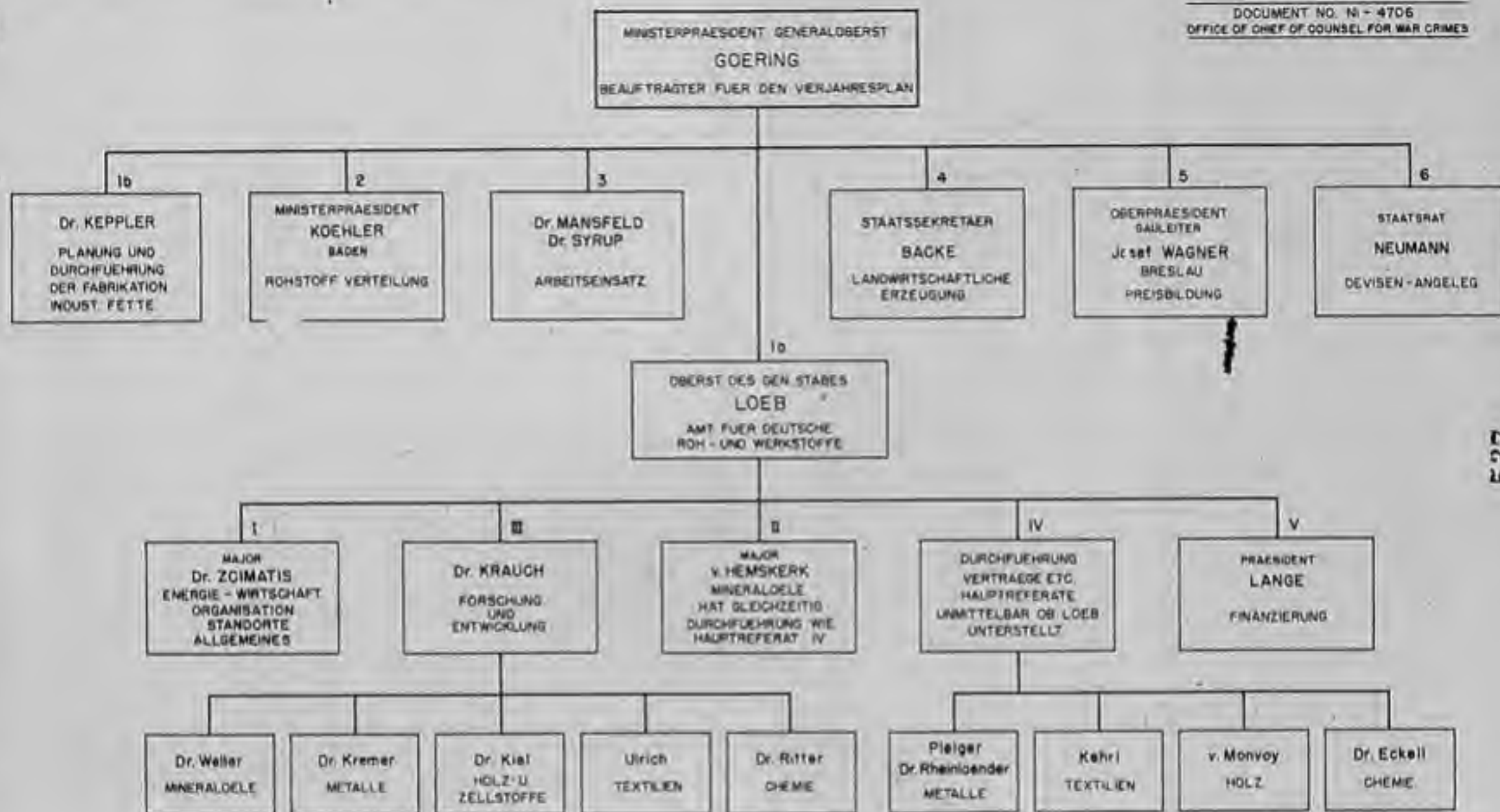
Im Jahre 1934 wandt HITLER seine Aufmerksamkeit der Wiederaufrüstung Deutschlands zu; er bestrebt sich, die Industrie von der Notwendigkeit ihrer Mithilfe bei diesem Plan zu überzeugen.

Es wurde daraufhin versucht, die Wiederaufrüstung mit Hilfe einer industriellen Organisation, der "Reichsgruppe Industrie", zu fördern, der die I.G. als Mitglied angehörte. Der Industrie wurde damals aufgegeben, ausführliche Pläne zum Schutz ihrer Betriebe gegen die Wirkungen von Luftangriffen auszuarbeiten. Späterhin wurde KRAUCH mit der Aufgabe einer Luftschutzplanung betraut, was dazu führte, dass GOERING ihm im Jahre 1944 in HITLER's Gegenwart eine Rüge erteilte. GOERING beschuldigte ihn, den Luftschutz der Betriebe, die damals von den Alliierten Luftstreitkräften schwer bombardiert wurden, nicht entsprechend geplant und überwacht zu haben. Es ist festzuhalten, dass dies die einzige Gelegenheit war, bei der der Angeklagte KRAUCH mit HITLER gesprochen hat. Im Jahre 1934 wurde beschlossen, ein "Kriegswirtschaftliches Zentralbüro der I.G. zu schaffen, die sich mit allen wehrwirtschaftlichen Angelegenheiten und Fragen der militärischen Planung befassen sollte". KRAUCH war derjenige, der diese Stelle ins Leben rief, die "Vermittlungsstelle" genannt wurde. Wir sind zu der Überzeugung gekommen, dass diese Stelle eine Zentrale bilden sollte fuer den Erfahrungsaustausch in Aufrüstungsangelegenheiten zwischen den verschiedenen Betrieben und Büros der I.G. und den mit der Wiederaufrüstung Deutschlands betrauten Reichsbehörden. Die Stelle empfing und verteilte Informationen, hatte aber nicht die Befugnis, Richtlinien festzulegen oder Anordnungen zur Ausführung bereits bestehender Richtlinien zu erlassen. Sie hat tatsächlich die Mithilfe der I.G. an Wiederaufrüstungsprogramm erleichtert, aber sie war kein Planungsamt. Sie bildete einen Bestandteil des Wiederaufrüstungsprogramms, aber weder in ihrem Aufbau noch in ihrer Tätigkeit lassen sich irgendwelche Anzeichen dafür finden, dass sie sich mit Plänen fuer einen Angriffskrieg befasst hat.

Im Jahre 1935 wurde KRAUCH ein Mitglied von GOERING's Rohstoff- und Devisen-Stab, der gerade gebildet worden war; KRAUCH wurde mit der Leitung der Forschungs- und Entwicklungsabteilung betraut.

Als dieser Stab in dem von GOERING geleiteten Amt des Vierjahres-Plans aufging, behielt KRAUCH dieselbe Stellung beim Amt fuer Deutsche Roh- und Werkstoffe. Diese Stelle aenderte spaeterhin ihren Namen in Reichsamt fuer Wirtschaftsausbau um; gleichzeitig wurde sie dem Reichswirtschaftsministerium unterstellt.

Kurz nach der Bekanntgabe des Vierjahres-Plans, im September 1936, ernannte HITLER GOERING zum Beauftragen fuer die Durchfuehrung des Plans. GOERING seinerseits ernannte sieben Maenner zu seinen Mitarbeitern und betraute jeden mit der Leitung einer gesonderten Abteilung, wie zum Beispiel der Abteilung fuer Arbeitsdienst, Landwirtschaftliche Erzeugnisse, Preisbildung usw. Oberst LOEB wurde mit der Leitung des Amtes fuer Deutsche Roh- und Werkstoffe betraut. LOEB hatte 5 Abteilungen unter sich; er ernannte ihm unterstellte Geschaeftsfuehrer fuer 4 dieser Abteilungen. Die Leitung der funften behielt sich LOEB selbst vor. Der Angeklagte KRAUCH war einer der vier Geschaeftsfuehrer und wurde mit der Leitung der Forschungs- und Entwicklungsabteilung betraut. Ein Diagramm, Inklage-Exhibit 425, das hier beigefuegt wird, gibt ein Bild von dem Aufbau des auf diese Weise geschaffenen Vierjahres-Plans.



Im Jahre 1938 beschlossen Hitler und Goering, die Produktion fuer den Vierjahres-Plan zu beschleunigen, und sie ernannten zu diesem Zweck zu verschiedenen Zeiten wenigstens neun Sonderbevollmaechtigte mit begrenzten Pflichten und Befugnissen. In Juli 1938 wurde KRAUCH zum Generalbevollmaechtigten fuer Sonderfragen der Chemischen Erzeugung ernannt. In dieser Stellung hatte er die Aufgabe, als Sachverstaendiger die Entwicklung der Chemischen Industrie zum Zwecke der Foerderung des Vierjahres-Plans zu ueberwachen. Die Entscheidung ueber den Bedarf an den einzelnen chemischen Erzeugnissen aber lag beim Hoerstauffenamt und beim Reichswirtschaftsministerium. Spaeterhin uebernahm das Ruestungsministerium diese Befugnis. Der Entwurf von Plaenen fuer den Ausbau bestehender Betriebe oder fuer die Errichtung neuer Betriebe gehoerte zu KRAUCHs Taetigkeitsbereich. Aber auch solche Plaene konnten ohne vorherige Genehmigung der Generalbevollmaechtigten fuer die Bauindustrie und fuer Arbeitsersatz nicht ausgefuehrt werden. KRAUCH war weder befugt, ueber Fragen der laufenden chemischen Produktion zu entscheiden, noch konnte er Produktionsauftraege erteilen oder sich in die Produktionszuweisung einmischen. Es ergibt sich somit, dass seine Zustaendigkeit sich hauptsaechlich auf die Erteilung von Gutachten ueber technische Entwicklungen, auf die Empfehlung von Plaenen zum Ausbau oder zur Errichtung von Betrieben und auf allgemeine technische Ratschlaege auf chemischen Gebiet beschränkt hat.

Die Beweisaufnahme hat klar ergeben, dass KRAUCH an der Planung von Angriffskriegen nicht beteiligt war. Die Plaene sind von einem streng abgeschlossenen Kreis ausgearbeitet worden und innerhalb dieses Kreises verblieben. Seine Sitzungen waren geheim. Der Meinungsaustausch war vertraulich. KRAUCH stand tief unter der Gruppe der Mitglieder dieses Kreises. Er hatte keine Gelegenheit, bei der Planung der grossen Umruecke oder der Vorbereitung fuer einen der Kriege mitzuwirken, deren Entfesselung den Angeklagten in Anlagepunkt ZINS zur Last gelegt wird.

Der Akteninhalt ergibt fernerhin klar, dass KRAUCH in keinerlei Zusammenhang mit der Einleitung irgendeines der von Deutschland begonnenen Angriffskriege oder Invasionen gestanden hat.



Er hat keine Mitteilung über den Zeitpunkt oder die Art und Weise der Einleitung erhalten. Das Beweismaterial, das KRAUCH am nächsten berührt, ist dasjenige, das sich mit der Vorbereitung der Angriffskriege befaßt. Nach dem ersten Weltkrieg war Deutschland völlig entwaffnet. Es hatte kein Kriegsmaterial und keine Möglichkeit, Kriegsmaterial zu erzeugen. Unmittelbar nach der Machtergreifung begannen die Nationalsozialisten Deutschland aufzurüsten, zunächst unauffällig und in Geheimen. In gleicher Weise wie das Modernisierungsprogramm wuchs auch HITLERs Kuckhheit in der Frage der Modernisierung. Die Aufrüstung sah nicht nur die Schaffung eines Heeres, einer Marine und einer Luftwaffe vor, sondern auch die Zusammenfassung und Entwicklung der industriellen Macht Deutschlands mit dem Zweck, diese Macht in Kriegsfall zur Unterstützung der Militärmacht zu verwenden. Der im Jahre 1936 ins Leben gerufene Vierjahres-Plan war ein Plan zur Ersterkung Deutschlands sowohl auf militärischen wie auf wirtschaftlichen Gebiet, obgleich bei seiner Bekanntgabe an das deutsche Volk die militärische Seite im Hintergrund gehalten wurde.

Um Deutschlands wachsende militärische Macht zu verbergen, wurden strenge Maßnahmen zur Geheimhaltung getroffen, nicht nur in Bezug auf militärische Angelegenheiten, sondern auch in Bezug auf Deutschlands vermehrte industrielle Leistungsfähigkeit. Dieses Verfahren diente zweierlei Zwecken: Einerseits verschleierte es die wahren Tatsachen vor der Welt und vor der deutschen Öffentlichkeit. Andererseits bewirkte es, dass die Leute, die tatsächlich bei der Modernisierung mitarbeiteten, von den ausserhalb ihres eigenen besonderen Tätigkeitsbereiches gemachten Fortschritten keine Kenntnis bekamen und in Unwissenheit über das tatsächliche Ausmass von Deutschlands militärischer Macht gehalten wurden. Das diktatorische System durchdrang alles. Selbst Männer in hohen Stellungen wurden in Unwissenheit gehalten, und es war ihnen nicht erlaubt, Mitteilungen über das Ausmass ihrer persönlichen Tätigkeit im Interesse des Reiches auszutauschen. Ein auffallendes Beispiel dafür ist KIEHLs Einspruch gegen KRAUCHs Ernennung zum Generalbevollmächtigten für Sonderfragen der Chemischen Erzeugung; er erhob diesen Einspruch mit der Begründung, dass KRAUCH als Industrieller und Nicht-Militär keinen Einblick in Angelegenheiten der Aufrüstung erhalten dürfe.

Er wies darauf hin, dass jedermann in einer solchen Stellung erfahren koennte, wieviel Divisionen fuer das Heer aufgestellt und welche Kampf-Staffeln geplant wurden. Die Beweisaufnahme hat ergeben, dass KRAUCH zwar trotz KETTELs Einspruch ernannt worden ist, aber niemals das volle Vertrauen der Militaers genossen hat. Seine Aufgabe und seine Befugnisse beschränkten sich auf Gebiete, die nur an Radio militaerischer Angelegenheiten lagen. Er konnte nicht handeln ohne die Mitwirkung des Heereswaffenamtes. Die Beweisaufnahme hat nicht ergeben, dass KRAUCH jemals von irgendeiner Seite mitgeteilt wurde, dass HITLER einen Plan oder Absichten habe, Deutschland in einen Angriffskrieg zu stuerzen. Auch hat die Stellung, die KRAUCH bei der Regierung innehatte, es nicht notwendigerweise mit sich gebracht, dass ihm diese Kenntnis zu teil wurde.

Der Internationale Militaergerichtshof hat entschieden, dass "gemäss den Bestimmungen des Statuts Wiederaufrüstung an sich nicht strafbar ist". Es ist ebenso klar, dass die Teilnahme der Angeklagten an der Wiederaufrüstung Deutschlands nur dann ein Verbrechen darstellt, wenn sie diese Wiederaufrüstung durchgefuehrt oder an ihr mitgewirkt haben mit der Kenntnis, dass die Wiederaufrüstung ein Bestandteil eines Angriffsplanes war oder die Fuehrung von Angriffskriegen zum Ziele hatte. Damit kommen wir zu der Frage, die fuer die Schuld oder Unschuld der Angeklagten unter Anklagepunkt Eins und Zwei entscheidend ist — zur Frage der Kenntnis.

Wir haben bereits die Frage der allgemeinen Kenntnis erörtert. Es hat in Deutschland keine solche allgemeine Kenntnis bestanden, auf Grund derer die Angeklagten von HITLERs Plaenen oder andgueltigen Absichten erfahren haben koennten.

Es ist geltend gemacht worden, dass die Angeklagten auf Grund der in Reich stattfindenden Ereignisse notwendigerweise wissen mussten, dass ihre Mitwirkung an der Wiederaufrüstung eine Vorbereitung zu einem Angriffskrieg darstellte. Es wird weiterhin behauptet, dass das riesige Ausmass der Wiederaufrüstung dazu angetan war, eine solche Kenntnis zu vermitteln. Wenn man die Dinge heute rueckblickend und in Licht der darauffolgenden Ereignisse betrachtet, koennte man allerdings sagen, dass Deutschland in einem solchen Tempo und Umfang aufgeruestet hat, dass man zu der Erkenntnis kommen musste, dass die Ruestungsproduktion den Bedarf fuer blosser Verteidigungsmassnahmen ueberstieg. Wenn wir hier militaerische Sachverstaendige abszuurteilen hatten,

und es bewiesen worden wäre, dass sie von dem Ausmass der Riederaufrüstung Kenntnis hatten, dann wäre eine solche Schlussfolgerung vielleicht berechtigt. Aber die Angeklagten waren sämtlich keine militärischen Sachverständigen. Sie waren überhaupt keine Soldaten. Ihr Lebenswerk hat sich ausschliesslich auf industriellen Gebiet abgespielt, und in den meisten Fällen auf dem engeren Gebiet der chemischen Industrie mit den dazu gehörenden Verkaufszweigen. Die Beweisaufnahme hat nicht ergeben, dass die Angeklagten das Ausmass der geplanten Riederaufrüstung kannten oder wussten, wie weit sie in einem bestimmten Zeitpunkt fortgeschritten war. Ebenso ist kein Beweis dafür erbracht worden, dass sie das Rüstungsausmass benachbarter Staaten kannten. Die Wirksamkeit einer Rüstung ist relativ. Sie hängt ab von dem Verhältnis zu der Rüstungsmacht anderer Nationen, gegen die sie entweder fuer Angriffs- oder Verteidigungszwecke gebraucht werden soll.

Die Gebiete, auf denen sich die I.G. betätigte, umfassten Kunstgummi, Benzin, Stickstoff, Leichtmetalle und, in einem gewissen Umfang, auf dem Wege ueber eine Konzern-Gesellschaft, auch Sprengstoffe. Die Angeklagten behaupten, dass sie auf den ersten drei Gebieten hauptsächlich darauf bedacht waren, den Zivilbedarf zu decken. Hitler baute Autobahnen und foerderte die Massenproduktion von kleinen Kraftwagen. Der Bedarf an Reifen stieg erheblich. Selbstverständlich war auch das deutsche Heer an einer erhoehten und verbesserten Erzeugung von Reifen interessiert. Es tat sich mit der I.G. zusammen, um die Gummi-Erzeugung auszubauen und die aus Buna hergestellten Reifen zu erproben. Auch die Benzin-Erzeugung wurde von den Militaers gefoerdert. Die Versuche und die Produktion auf dem Gebiet der Verfahren zur Erzielung hoher Oktanziffern waren von besonderem Nutzen fuer die LuftwaFFE.

Stickstoff ist ein Erzeugnis, fuer das die Landwirtschaft in Friedenszeiten einen grossen Bedarf hat. Der ertragsarme deutsche Boden benoetigte viel Kunstduenger um die entsprechende Nahrung fuer ein Land hervorzubringen, das fuer die Ernährung seiner Buergen in hohem Grade auf Importe angewiesen war. Ausserdem ist Stickstoff ein unersetzlicher Grundstoff bei der Herstellung der meisten Sprengstoffe.

Seine Erzeugung kann mit Leichtigkeit vom Friedensbedarf auf den Kriegsbedarf umgestellt werden. Deshalb ermutigte das Reich die I.G., ihre Anlagen fuer die Erzeugung von Stickstoff im grossen Massstab auszubauen. Leichtmetalle wurden zu friedlichen Zwecken benutzt. Sie wurden aber auch fuer Kriegszwecke benoetigt, besonders bei der Herstellung von Flugzeugen. Die Verteidigung hat aber darauf hingewiesen, dass das Flugzeug an sich nicht unbedingt ein Kriegsmittel ist, sondern auch in Friedenszeiten als Transportmittel Verwendung findet.

Die Luftwaffe war jedoch keine Einrichtung fuer friedliche Zwecke. Sie machte von dieser zukunftsreichen Kriegsmittel der modernen Nationen Gebrauch. Die Angeklagten, die in Zusammenarbeit mit den technischen Offizieren der Luftwaffe bei dem Ausbau der Leichtmetallerzeugung mitwirkten, wussten natuerlich, dass die auf diese Weise Deutschlands Kriegspotential erhoehten. Eine gleiche Kenntnis muss denjenigen unterstellt werden, die bei dem Ausbau der Produktionskraft der I.G. fuer die Erzeugung von Buna, Benzin und Stickstoff mitgewirkt haben. All diese Erzeugnisse gehoerten zu einem umfassenden Plan oder Programm fuer die Erstaerkerung Deutschlands auf dem Gebiet der Wirtschaft und der Aufruestung. Insoweit als die Taetigkeit der Angeklagten in der geschilderten Weise zu der materiellen Wiederaufruestung Deutschlands beitrug, muss ihre Kenntnis von dem unmittelbaren Ergebnis ihrer Handlungen unterstellt werden. Das Beweisergebnis ist nicht so eindeutig in der Frage der Verantwortung der I.G. fuer die Erhoehung der Sprengstoff-Erzeugung. Es ist klar, dass auf diesem Gebiet das Reich die Initiative ergriffen hatte, aber die I.G. hat die Erzeugung durch Stellung von Sachverstaendigen und Kapital fuer den Ausbau von Sprengstoff-Betrieben unterstuetzt, und hat somit, wenigstens in diesem Umfange, an der Wiederaufruestung mitgearbeitet. Die Anklagebehoerde hat aber die schwierige Aufgabe, den Angeklagten nicht nur nachweisen zu muessen, dass sie Kenntnis nicht nur von der Wiederaufruestung Deutschlands hatten, sondern auch davon, dass diese Wiederaufruestung einen Angriffskrieg zum Ziel hatte. Insoweit erbringt das vorliegende Material keinen Beweis, sondern verliert sich in blossen Vermutungen. Es ist moeglich, dass die Angeklagten ueber das beschleunigte Tempo der Wiederaufruestung bestuerzt waren, und bei manchen von ihnen war dies unzweifelhaft der Fall.

Und doch ist selbst KRAUCH, der auf chemischen Gebiet am Vierjahres-Plan mitarbeitete, sich unzweifelhaft nicht darüber klar gewesen, dass er nicht nur an der Festartung Deutschlands mitwirkte, sondern dass seine Arbeit zugleich dazu diente, die Nation fuer einen geplanten Angriffskrieg vorzubereiten. Bis zur Mitte des Jahres 1938 hat KRAUCH bei der Produktionsplanung fuer die eben besprochenen Erzeugnisse keine Rolle gespielt. Die Produktionsplanung wurde von der Planungsstelle des Reichsamts fuer Wirtschaftsaufbau durchgefuehrt, die nicht unter KRAUCHs Leitung stand. Als LUEK ihm an Hand von statistischen Unterlagen ueber den Stand der Produktion und ueber die fuer die Erreichung bestimmter Ziele benoetigte Zeit unterrichtete, kam KRAUCH zu der Ueberszeugung, dass die Zahlen zum grossen Teil falsch und irrefuehrend seien, und berichtete entsprechend an Goering, der KRAUCH um seine Stellungnahme ersucht hatte. KRAUCH arbeitete daraufhin den sogenannten Karinhall-Plan aus, der den Ausbau von Fertigungsstaetten und die Beschleunigung der Produktion von Mineraloelen, Buna und Leichtmetallen vorsah. Mittlerweile waren Goering von Keitel statistische Unterlagen unterbreitet worden, die sich auf die Produktion von Pulver, Sprengstoffen und bestimmten bei ihrer Erzeugung verwendeten Rohstoffen bezogen. Die Richtigkeit dieser Zahlen wurde von KRAUCH ebenfalls in Frage gestellt; daraufhin gab Goering KRAUCH den Auftrag, in Zusammenarbeit mit dem Heereswaffenamt einen verbesserten Plan fuer die beschleunigte Produktion von Pulver, Sprengstoffen und den dazugehoerigen Rohstoffen auszuarbeiten. Der dann entworfen Plan ist unter dem Namen Schnellplan bekannt geworden. Die Beweisaufnahme hat nicht geklaert, ob KRAUCH oder das Heereswaffenamt bei den Entscheidungen ueber die mit diesem Plan zusammenhaengenden Probleme vorherrschend war.

Wir kommen jetzt zu der Kernfrage, ob auf Grund von KRAUCHs Taetigkeit in Zusammenhang mit dem Vierjahresplan, dem Karinhall-Plan und dem Schnellplan angenommen werden kann, dass er gewusst hat, dass das Endziel von Hitler, Goering und den anderen nationalsozialistischen Fuehrern die Entfesselung eines Angriffskriegs oder mehrerer Angriffskriege war. Am 29. April 1939 unterbreitete KRAUCH seinem Vorgesetzten Goering

und dem Generalrat einen Bericht, in dem er mit grosser Ausführlichkeit die Ziele klarlegte, die durch den Karinhall-Plan und den Schnell-Plan fuer die Erzeugung von Mineraloelen, Gummi, Leichtmetallen, sowie von Pulver, Sprengstoffen und chemischen Kampfmitteln erreicht werden sollten. Fuer die Mineraloele, die er in Benzin, Dieseloel, Heiz- und Schmieroele aufteilt, war das Endziel fuer das Jahr 1943 angegeben. In seiner Untersuchung erwaeht KRAUCH den Friedensbedarf fuer 1943 - eine Tatsache, aus der man kaum schliessen kann, dass er den bereits bestehenden Plan Hitlers kannte, Polen im Herbst 1939 anzugreifen. Seine Plaeue fuer Buna umfassen ebenfalls das Jahr 1943. Auf dem Gebiet der Leichtmetalle sollte dem Plan gemass das vorläufige Ziel fuer Aluminium im Jahr 1942 erreicht werden; das gleiche Zieljahr wurde fuer Magnesium festgesetzt. Um die Berechtigung seiner Produktionsziele nachzuweisen, aussert sich KRAUCH wie folgt:

"Das deutsche Mineraloel-Ausbauziel von rd. 15,8 Mio t steht ein Mob-Bedarf Frankreichs von rd. 13 Mio und ein Mob-Bedarf Englands von rd. 30 Mio t gegenüber.

Der Heizoel-Bedarf Englands betraegt allein rd. 12 Mio t fuer die Flotte, also fast so viel wie der gesamte deutsche Mob-Bedarf.

Die Kautschuk-Forderung von 120 000 tato steht in direkten Zusammenhang mit der deutschen Motorisierung und damit wieder mit dem Mineraloelplan. Der englische Naturkautschuk-Verbrauch war 1938 schon rd. 105 000 t, der franzoesische rd. 60 000 t.

Die Leichtmetalle sind nicht nur notwendig fuer die Luftwaffe, sondern auch friedensmässig - besonders fuer den Austausch von Sparmetallen - von grosser Bedeutung. Der Ausbau erreicht im Endziel bei Aluminium 250 000 t, das ist die Haelfte der heutigen Velterzeugung und das zehnfache der heutigen englischen Kapazitaet. Die Magnesium-Kapazitaet wird nach dem Ausbau das 3fache der

heutigen Weltzeugung betragen."

Das Produktionsziel fuer Pulver und Sprengstoffe sollte am Ende des Jahres 1942 erreicht werden, das Endziel fuer chemische Kampfmittel Mitte 1942. KRAUCH wies darauf hin, dass die damalige Produktionskraft von Frankreich und Gross-Britannien das Endziel des Schnellplans bereits ueberstieg. Am Ende dieses Berichtes befindet sich ein Schlussteil, aus dem die Anklagobehorde mehrere Abschnitte mit Nachdruck zitiert hat als zwingenden Beweis fuer KRAUCHs Kenntnis von Hitlers Angriffsabsichten. Dieser Schlussteil beschaeftigt sich mit Deutschlands ungünstiger Lage auf wirtschaftlichen und militärischen Gebiet. Die darin ausgedruckten Gedanken sind nicht allzu klar durchdacht, und manchmal sogar widerspruchsvoll. KRAUCH unterstreicht darin die Notwendigkeit und Wichtigkeit einer Erstaerkerung Deutschlands auf militaerischen und wirtschaftlichen Gebiet. Manche Wendungen koennen als Ausdruecke kriegerischer Absichten aufgefasst werden, aber wenn man sagen wollte, dass diese Aussuerungen beweisen, dass ihr Urheber von dem bevorstehenden Angriffskrieg Deutschlands Kenntnis hatte, so wuerde man Schlussfolgerungen ziehen, die nicht berechtigt sind. KRAUCH empfiehlt die

"Schaffung eines einheitlichen Grosswirtschaftsblocks der 4 europaeischen Antikomintern-Partner, zu denen bald Jugoslawien und Bulgarien hinzutreten muessen.

Innernaeb dieses Blocks Aufbau und Steuerung der Volkswirtschaft nach den Gesichtspunkten eines Verteidigungskrieges der Koalition."

Speziell macht er die folgende Bemerkung, die von der Anklagobehorde als besonders belastend hervorgehoben wurde:

"Deutschland muss das eigene Kriegspotential und das seiner Verbuendeten so staerken, dass die Koalition den Anstrengungen fast der ganzen uebrigen Welt gewachsen ist. Das kann nur durch neue, grosse und gemeinsame Anstrengungen aller Verbueundeten geschehen, und durch eine der Rohstoff-Basis der Koalition entsprechende verbesserte, zunaechst friedliche Ausweitung des Grosswirtschaftsraumes auf den Balkan und in Spanien."

Kann man den Bericht als Ganzes betrachtet, so scheint sich zu ergeben, dass KRAUCH Pläne für die Erstarlung Deutschlands vorschlug, das seiner Meinung nach von starken ausländischen Mächten umzingelt und bedroht war, und dass nach seiner Ansicht diese Lage möglicher- und sogar wahrscheinlicher Weise früher oder später zum Kriege führen würde. Aber der Bericht ist völlig unzureichend als Beweis seiner Kenntnis von der Tatsache, dass die Führer des Deutschen Reiches den Plan hatten, einen Angriffskrieg gegen einen bestimmten oder wahrscheinlichen Feind zu führen.

KRAUCH hat in eigener Sache und in der Sache seiner Mitangeklagten ausführliche Zeugenaussagen gemacht. Er hat mit Nachdruck bestritten, dass er irgendwelche Kenntnis von Hitlers Absichten hatte, einen Angriffskrieg in allgemeinen zu führen oder bestimmte Opfer anzugreifen. Er hat eine grosse Menge Beweismaterial vorgelegt, das dazu bestimmt war, seine Unwissenheit zu bestätigen, seine amtlichen Beziehungen zum Reich als nicht so wichtig erscheinen zu lassen und seine Mitangeklagten von der Verantwortung für seine Handlungen zu befreien. Ein Versuch, das gesamte Beweismaterial für und gegen KRAUCH zu den Anklagepunkten I bis V hier zu schildern, würde dieses Urteil in einer nicht zu rechtfertigenden Weise verlangsamen. Wir haben die grosse Anzahl der Beweisstücke eingehend geprüft und haben uns bestrebt, bei jedem einzelnen Dokument das ihm zukommende Gewicht und seinen Beweiswert festzustellen. Diese Arbeit hat uns zu der klaren Schlussfolgerung geführt, dass KRAUCH sich nicht wesentlich an der Planung, Vorbereitung oder Entfesselung eines Angriffskrieges beteiligt hat.

Nach dem Angriff auf Polen ist KRAUCH auf seinem Posten verblieben; er hat seine Tätigkeit auf den Gebieten fortgesetzt, mit denen er sich schon vorher befasst hatte. Es wird geltend gemacht, dass diese Tätigkeit als Teilnahme an der Führung eines Angriffskrieges anzusehen ist. Unzweifelhaft hat er seine Dienste ungefähr in derselben Art und Weise zur Verfügung gestellt wie Tausende von anderen Deutschen, deren Stellungen zwar von Wichtigkeit waren, aber nichtdestoweniger unter der Rangstufe jener nationalsozialistischen Führer auf militärischem und zivilen Gebiet lagen, die von dem Internationalen Militärgerichtshof abgeurteilt worden sind. Wir werden die Beteiligung KRAUCHS an der Führung eines Angriffskrieges ebenso wie die Beteiligung der übrigen Angeklagten in einem späteren Abschnitt dieses Urteils behandeln.

Keiner der übrigen Angeklagten war dem Schauplatz der nationalsozialistischen Regierungstätigkeit so nahe wie KILUCH. Er war zwar Mitglied des Vorstandes der I.G. während des gesamten Zeitraumes der Wiederaufrüstung Deutschlands bis zum Jahre 1940, nahm aber nach 1936 an Vorstandssitzungen nicht mehr teil und erstattete auch keine Berichte über seine Tätigkeit in seiner Regierungsstellung an den Vorstand oder dessen Untereinheiten und Ausschüsse. Es ist unnötig und erscheint daher nicht angebracht, in diesem Urteil eine ins Einzelne gehende Würdigung des Ergebnisses der Beweisaufnahme fuer und gegen jeden Angeklagten vorzunehmen. Dagegen erscheint es angebracht, kurz über die Stellung der I.G. und derjenigen Angeklagten zu sprechen, die offensichtlich eine beherrschende Stellung im Vorstand innehatten.

Der Angeklagte "GERT" war Vorsitzender des Vorstandes von 1935-1945. Im Jahre 1935 wurde er Vorsitzender des Zentralkomitees. Er nahm tatigen Anteil an zahlreichen Sitzungen des Technischen Ausschusses und des Kaufmannischen Ausschusses. Diese Untereinheiten des Vorstandes bearbeiteten technische und kaufmännische Fragen, die sich aus der zentralen Leitung der riesigen Organisation der I.G. ergeben. Als Vorsitzender des Vorstandes hatte "GERT" keine besonderen Machtbefugnisse. Er wird in den Akten häufig als primus inter pares bezeichnet, d.h. als Erster unter Gleichberechtigten. Sein Desernat war Finanzangelegenheiten, was seine Kollegen legten grosses Gewicht auf ^{seine} Ansicht in derartigen Fragen.

Im Jahre 1933, nach der Machtergreifung durch HITLER, machten die Leiter zahlreicher führender Unternehmen offizielle Besuche bei HITLER. Unter ihnen war BOSCH, damals Vorsitzender des Vorstandes, dessen Nachfolger später SCHITT wurde. Die Stellung der Industrie in dieser Zeit wird in der Vernehmung von GOETTER wie folgt beschrieben: (Dokumentstück der Anklagebehörde No. 58):

"F.: Wurde Deutschland diesem riesigen Aufrüstungsprogramm nicht aufgegeben haben, wenn es nicht die volle Unterstützung der Industriellen von Anfang bis zu Ende hätte gegeben?"

"A.: Die Industriellen sind Deutsche. Sie mussten ihren Vaterland helfen.

"F.: Sind sie hierzu gezwungen worden, oder haben sie das freiwillig getan?

"A.: Sie taten das freiwillig, aber wenn sie sich geweigert hätten, dann wäre die Regierung eingeschritten.

"F.: Sind Sie der Ansicht, dass die Regierung stark genug gewesen wäre, die Grossindustrie in einen Krieg hineinzuzwingen, wenn die Grossindustrie den Krieg nicht gewollt hätte?

"A.: Als das Volk zum Kriege aufgerufen wurde, folgten alle Industriewerke, ohne durch innere Überzeugungen gehindert zu sein."

Am 27. Dezember 1936 drohte GOEBBELS in einer Sitzung, an der die Vertreter einer Anzahl von Firmen, darunter der I.G., teilnahmen, der Industrie an, dass sie vom Staat beschlagnahmt werden würde, wenn sie nicht besser mit dem Vierjahresplan zusammenarbeiteten.

Es besteht ein auffällender Mangel an Beweismaterial fuer die Tätigkeit von SCHITT, soweit sie hier erheblich sein könnte, besonders während der letzten Periode, auf die sich das Verfahren bezieht. In einem Versuch, schon fuer einen fruhen Zeitpunkt ein Duendnis zwischen der I.G. und HITLER aufzumachen, hat die Anklagebehörde darauf hingewiesen, dass die I.G. namhafte Beträge an die NSDAP gespendet hat. Im Februar 1933 versammelten sich Vertreter der meisten leitenden deutschen Industriefirmen im Hause GOEBBELS in Berlin. HITLER war ersessend. Er war schon zum Reichskanzler vorgeschlagen. Der Zweck der Zusammenkunft war, HITLER die Unterstützung der Industriellen bei der kommenden Reichstagswahl zu sichern. Sowohl HITLER als GOEBBELS hielten Ansprachen, in denen sie HITLER's Politik darlegten, soweit diese zur damaligen Zeit überhaupt enthüllt wurde. Nach den Ansprachen forderte GOEBBELS zu Spenden auf. Von SCHITT war der einzige Vertreter der I.G. bei dieser Zusammenkunft. Die meisten, wenn nicht alle vertretenen Firmen zeichneten namhafte Spenden zu einem "Hilfsfonds", der zu Gunsten aller HITLER unterstützenden Parteien benutzt werden sollte. Die Parteien, die an diesem Hilfsfonds teilhaben sollten, waren die NSDAP, die Deutschnationale Volkspartei und die Deutsche Volkspartei. Der Beitrag der I.G. belief sich auf 400 000 RM; das war eine der grossen Spenden.

Diese Spende war fuer eine Bewegung geleistet worden, die ihren Ursprung in der Arbeitslosigkeit und in dem allgemeinen finanziellen Chaos einer Weltdepression hatte. Dieser Zustand war in Deutschland an schlimmsten. Die Massen hatten sich um HITLER's Fühne geschart, irrefuehrt durch seine Versprechungen, dass er mehr Arbeit, mehr Nahrung und mehr Wohnungen schaffen werde. Die Industrie folgte den Massen und leistete Beitrage fuer die neue Bewegung. Man kann nicht sagen, dass eine solche Spende auf ein finsternes Zwiesdnis hindeute; das wuerde eine falsche Auffassung der Tatsachen sein, wie sie damals vorlagen, und wuerde bedeuten, dass aus HITLER's spectacular Laufbahn ruckwirkend Schlussfolgerungen gezogen werden. SCHITT war am Tage der Zusammenkunft und auch noch spaeter bis zum 3. Maerz 1933 in der Schweiz, und es ist nicht davor, dass er mit dieser Spende irgend etwas zu tun gehabt hat.

Wahrend der Infurstungszeit setzte die I.G. ihre naechsten Beitrage an die NSDAP und die ihr angeschlossenen philanthropischen und wohltatigen Organisationen fort. Im Anfang waren diese Spenden zweifellos freiwilliger Natur. Als aber HITLER's Macht wuchs und die NSDAP immer einflussender wurde, veranderte sich der Charakter dieser Beitrage: die Spenden wurden zu Zwangsabgaben. SCHITT als Vorsitzender des Vorstandes hat den Anforderungen der nationalsozialistischen Fuehrer keinen hartneckigen Widerstand entgegengesetzt. Auf der anderen Seite hat er sich aber auch nicht wie ein begeisterter Mitarbeiter benommen. Augenscheinlich beachtete er die Forderungen des Reichs, wenn ihm das angebracht schien, und ging dabei so weit, dass er auf Empfehlung recht erhebliche Summen als Spenden an verschiedene nationalsozialistische Einrichtungen uobersandte.

Diese Tatsachen rechtfertigen den Schluss, dass HITLER's Angriffsabsichten bekannt waren weder gegen den Angeklagten SCHITT noch gegen die I.G. in allgemeinen.

Der Angeklagte von SCHITT war eine fuehrende Persoenlichkeit in der Kaufmannischen Gruppe der Vorstandsmitglieder. Im Jahre 1937 wurde er Vorsitzender des Kaufmannischen Ausschusses. Eine der Hauptaufgaben dieses Ausschusses war die allgemeine Ueberschau des Absatzes der von der I.G. hergestellten Waren. Hierzu gehoerten nicht nur die Inlandsmarkte und die Finanzierung, sondern auch Export,

Devisen, und schliesslich die Verkaufsgenturen in vielen anderen Laendern. Nach dem Beginn der deutschen Eroberungszuege beschaeftigte sich der Kaufmannische Ausschuss in allgemeinen und der Angeklagte von SCHNITZLER in besonderen mit der Ausdehnung der Interessen der I.G. auf die eroberten Laender. SCHNITZLER war der Handlungsreisende und der Diplomat der I.G. Er befindet sich seit seiner Festnahme am 7. Mai 1945 in Haft. Im Verlaufe seiner Haft ist er haeufig vernommen worden. Seine Angaben, von denen manche sehr ausfuehrlich sind, finden sich in funfundvierzig schriftlichen Erklaerungen, eidesstattlichen Versicherungen und Vernehmungs-Protokollen; eine Anzahl dieser Urkunden sind als Beweisstuecke vorgelagt worden. SCHNITZLERs Verteidiger begehrt die Ausserachtlassung aller dieser Erklaerungen mit der Begrueendung, dass sie unter Drohung, Druck und Zwang abgegeben seien. Er behauptet, dass sein Mandant waehrend der Haft misshandelt, beleidigt und erniedrigt worden sei und dass diese Art der Behandlung zu einer geistigen Verwirrung gefuehrt habe, die so schlimm gewesen sei, dass er in der Hoffnung auf bessere Behandlung und in vielen Faellen ohne grosse Ruecksicht auf den wirklichen Tatbestand den Vernehmungsbeamten voll Eifer in die Haende gearbeitet habe. Das Gericht ist nicht der Ansicht, dass die Ausuebung eines genuenend starken Druckes nachgewiesen worden ist, um den Ausschluss des Beweismaterials mit der Begrueendung zu rechtfertigen, dass die Erklaerungen unfreiwillig abgegeben worden seien, wenn auch die Umstaende, unter denen sie abgegeben worden sind, zweifellos den Beweismwert der Angaben SCHNITZLERs erheblich vermindern. Aus den Erklaerungen selbst ergibt sich, dass von SCHNITZLER ernsthaft beunruhigt und zweifellos sogar geistig leicht verwirrt war infolge der Ungluecksfaelle, die Deutschland, seine I.G. und ihn persoendlich betroffen hatten. Er war ausserordentlich wortreich. Er hat dem Vernehmungsbeamten schriftliche und muenndliche Erklaerungen mit augenscheinlichen Eifer und mit soviel Einzelheiten in Tatbestand und in Schlussfolgerungen gegeben, dass gewisse Stellen, die augenscheinlich dem Angeklagten selbst zum Nachteil gereichen, nach Ansicht des Gerichts nur einen fragwuerdigen Beweismwert haben. In manchen der spaetere Erklaerungen werden fruhere Angaben abgeaendert und angeblich verbessert. Sein Bestreben, den ihm vernehmenden Beamten das zu erzahlen, was sie wie er annahm, gern hoeren wollten, ist durchweg erkennbar, das beweist z.B. die folgende Erklaerung, auf die die Anklagebehoerde grosses Gewicht gelegt hat:

"Im Juni oder Juli 1939 hat die I.G. und die gesamte Schwerindustrie ganz genau gewusst, dass Hitler sich entschlossen hatte, in Polen einzumarschieren, wenn Polen seine Forderungen nicht bewilligen sollte."

Von SCHMITZER ist nicht als Zeuge in eigener Sache aufgetreten. Im Einklang mit der während des Verfahrens vom Tribunal gefällten Zwischenentscheidung galten seine Erklärungen als zulässiges Beweismaterial nur insoweit, als sie ihn selbst betreffen, haben aber unbeachtet zu bleiben bei der Abwägung der Frage der Schuld oder Unschuld der anderen Angeklagten. Wenn man von den erwähnten Erklärungen absieht, so reicht das übrige Beweismaterial gegen von SCHMITZER nicht annähernd aus, um eine strafrechtlich zur Verurteilung ausreichende Kenntnis festzustellen. Er hat ebenso wie andere Mitglieder des Vorstandes seinen Teil zu der Mitarbeit der I.G. am Vierjahresplan beigetragen, hat aber, als kaufmännischer Sachverständiger, nicht unmittelbar an der Steigerung der Fertigung der I.G. teilgenommen. Sein Arbeitsgebiet umfasste hauptsächlich Devisen und Devisenmärkte. Nach Kriegsausbruch hat er Massnahmen fuer eine Zusammenarbeit zwischen der Nachrichtenabteilung des Rüstungsamtes und den Auslandsvertretungen der I.G. gebilligt. Das Gericht kann nicht feststellen, dass SCHMITZERs eigene Tätigkeit oder die der Auslandsvertreter von besonderem Wert fuer die Kriegsfuehrung gewesen waeren. Wenn man die ganze Tätigkeit von SCHMITZERs zusammenfasst, dann ergibt sich, dass er mit der Planung, Vorbereitung oder Entfesselung eines der Hitler'schen Angriffskriege nicht einmal in entfernter Verbindung gestanden hat und dass seine Teilnahme an Kriege nach dessen Ausbruch nicht ueber die eines durchschnittlichen, anstaendigen deutschen Buergers und Geschaeftsmannes hinausgegangen ist.

Der Meer war eine der fuehrenden Personenlichkeiten im Vorstand. Sein Tätigkeitsbereich lag hauptsaechlich auf dem Gebiete der Technik. Er war Vorsitzender des Technischen Ausschusses (TZA) von 1933 bis 1945 und Leiter der Sparte II von 1929 bis 1945. Er hatte von allen Vorstandmitgliedern wahrscheinlich den grossten Einfluss auf die Entwicklung und Steigerung der Fertigung der I.G. waehrend der 15 Jahre vor dem Zusammenbruch Deutschlands im Jahre 1945. Die Mitwirkung der I.G. am Vierjahresplan lag gresstenteils auf technischem Gebiet und fiel daher in den Arbeitsbereich und die Einflussphaere von der MEER.

Im Hinblick auf die Betonung, die auf die Behauptung gelegt worden ist, dass die Mitarbeit am Wiederaufrüstungsprogramm ein Indiz fuer die Kenntnis von Hitlers Angriffsabsicht darstelle, erscheint es bemerkenswert, wie wenig Beruehrung TER LEEER mit den nationalsozialistischen Fuehrern gehabt hat. Man sollte annehmen, dass TER LEEER Zutritt zu den Kreise der Machthaber hatte haben muessen, wenn es ueberhaupt einen Mitglied des Vorstandes der I.G. verstatet war, Hitlers Absichten kennen zu lernen. Es ist nicht nur nicht bewiesen, dass TER LEEER die Moeglichkeit hatte, von Hitlers Angriffsabsichten Kenntnis zu erlangen; darueber hinaus ist das Verhalten der I.G. auf gewissen Gebieten, die zur Zustaendigkeit von TER LEEER gehoerten, unvereinbar mit einer solchen Kenntnis. Am 1. April 1938 gruendeten die I.G. und die Imperial Chemical Industries, das bedeutendste chemische Unternehmen in Gross-Britannien, eine Farbstofffabrik in Trafford Park in England. Die beiden Firmen haben bis in die letzten Tage des Augusts 1939 gemeinsam an der Errichtung dieser Fabrik gearbeitet. Vor Kriegsausbruch hatte die I.G. begonnen, eine eigene Fabrik in der Nahe von Rouen in Frankreich fuer die Herstellung von Textil-Hilfserzeugnissen zu errichten. Im Juli 1939 beschloss die I.G., die Erzeugung von pharmazeutischen Praeparaten in Frankreich zu beginnen. Der Krieg brach aus, bevor Schritte zur Ausfuehrung dieses Beschlusses unternommen werden konnten. In den Jahren 1938 und 1939 wurden erhebliche Mengen Stickstoff an eine britische Firma in England geliefert.

Es wird behauptet, dass die Entwicklung des Kunstgummis, der von der Wehrmacht zur Erhoehung ihrer Beweglichkeit gebraucht wurde, ein wichtiger Schritt in der Wiederaufruestung und ein Indiz fuer die Kenntnis der Angeklagten von Hitlers Angriffsabsichten gewesen sei. Der Wert des Kunstgummis als potentielles Kriegsmaterial soll nicht gering eingeschaezt werden. Sein Wert als Beweismittel fuer das Vorliegen einer strafrechtlich erheblichen Kenntnis aber wird ernsthaft in Frage gestellt, wenn man beruecksichtigt, dass die I.G. es unterlassen hat, aengstlich ueber die Geheimhaltung des Herstellungsverfahrens zu wachen. Buna-Erzeugnisse sind auf der Pariser Weltausstellung im Jahre 1937 ausgestellt worden. Wissenschaftliche Vortraege ueber dieses Erzeugnis sind

vor dem Internationalen Chemischen Kongress in Rom im Jahre 1938, vor einer chemisch-industriellen Vereinigung in Paris im Jahre 1939 und im gleichen Jahre vor der Amerikanischen Chemischen Gesellschaft in Baltimore, Maryland, gehalten worden.

Die I. G. hatte mit einer amerikanischen Firma vereinbart, Fahrzeugreifen aus Kunstgummi zu erproben. Die Versuche wurden bis zum Kriegsausbruch fortgesetzt. Ter Meer hatte im Zusammenhang mit diesen Versuchen eine Reise nach Amerika fuer den Herbst 1939 geplant. Er sollte von den Angeklagten von Knieriem und Ambros, sowie von einem anderen Beamten der I. G. begleitet werden. Der Kriegsausbruch hat diese Reise verhindert.

Im Jahre 1938 und den folgenden Jahren hat die I. G. 16 Lizenzvertraege mit amerikanischen Firmen abgeschlossen. Einer dieser Vertraege bezog sich auf ein kriegswichtiges Erzeugnis, Phosphor. Am 1. August 1939 erhielten Vertreter einer kanadischen chemischen Firma die Erlaubnis, das Werk Ludwigshafen der I. G. im Zusammenhang mit Verhandlungen ueber Lizenzen und Informationen ueber die Herstellung von Aethylen aus Acethylen zu besuchen. Im August 1933 erhielten zwei Chemiker der amerikanischen Firma Carbide and Carbon Chemical Company die Erlaubnis, das Werk Hoechst der I. G., die Metallgesellschaft und das Degussa Werk in Frankfurt a. Main zu besuchen. Dieses Verhalten Ter Meeres und seiner Mitarbeiter laesst sich nicht mit der Auffassung vereinbaren, dass die Maenner, denen die Teilnahme an der Vorbereitung eines solchen Krieges zur Last gelegt wird, Kenntnis von einem bevorstehenden Angriffskrieg gehabt haetten.

In der Anklageschrift wird die I. G. beschuldigt, an der Schwachung von Deutschlands moeglichen Gegnern durch ihre Auslands-Wirtschaftspolitik mitgewirkt und Propaganda, Nachrichtendienst und Spionage zum Gunsten des Reichs betrieben zu haben. Besonders Gewicht wird auf die Tatsache gelegt, dass die I. G. viele Vertraege mit groesseren Industrie-Konzernen auf der ganzen Erde abgeschlossen hat, welche die verschiedenen Abschnitte des Versuchsstadiums, die Herstellung und den Absatz auf Gebieten betrafen, auf denen die Auslandsfirmen als Konkurrenten der I. G. auftraten. Alle diese Vertraege werden unter der viel missbrauchten Sammelbezeichnung "Kartelle" zusammengeworfen.

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Viele dieser Verträge enthielten im wesentlichen Lizenzerteilungen in denen die I.G. ausländischen Firmen gestattete, Waren zu erzeugen, die durch I.G.-Patente geschützt waren. Dies ist offenbar unter grossen kaufmännischen Konzernen auf der ganzen Welt allgemein üblich, und die Schuld, wenn man überhaupt von einer solchen sprechen kann, scheint mehr bei dem nationalen und internationalen Patentrecht zu liegen, als bei den Unternehmen, die sich den von Gesetz gewährten Schutz zunutze machen. Weiterhin kann das Gericht weder im Völkerrecht noch in den innerstaatlichen Gesetzen der europäischen Grossmächte ein Gegenstück zu dem Sherman Anti-Trust Act finden. Es ist nicht geltend gemacht worden, dass einer der von der I.G. abgeschlossenen Verträge an und für sich eine strafbare Handlung darstelle; trotzdem wird die Auffassung vertreten, dass die I.G. mittels dieser Verträge die industrielle Entwicklung im Ausland erdrosselt habe. Auf Verträge zwischen der Standard Oil Company of New Jersey und der I.G. über die Vervollkommenung und Fertigung von Buna-Gummi in den Vereinigten Staaten wird als besonders bezeichnende Beispiele hingewiesen. Die beiden Gesellschaften waren übereingekommen, ihre Erfahrungen über die Versuchsergebnisse auf diesem Gebiet auszutauschen. Die I.G. war ihren Konkurrenten im Versuchsstadium und auf dem Gebiet des Herstellungsverfahrens weit überlegen. Das Reich hatte die I.G. bei der Entwicklung von Buna mit erheblichen Summen finanziert und beanstandete nun die von der I.G. abgeschlossenen Verträge. In Beantwortung dieser Beanstandung teilte die I.G. durch den Angeklagten TER LIEER dem Reich mit, dass sie, die I.G., den Vertrag insoweit nicht erfülle, als sie den amerikanischen Konzernen die Ergebnisse ihrer letzten und neuesten Versuche nicht zugänglich mache. TER LIEER hat ausgesagt, dass diese Mitteilung an das Reich falsch gewesen sei und den Zweck gehabt habe, Beanstandungen und Einmischungen durch Regierungsbeamte zu vermeiden, und dass die I.G. tatsächlich den Vertrag nach Treu und Glauben erfüllt habe. Diese letzte Erklärung wird unterstutzt durch die eidesstattlichen Versicherungen von zwei Angestellten der Standard Oil, in denen es heisst, dass die von der I.G. erteilte Information sehr wertvoll gewesen sei. Die Akten enthalten keine Anhaltspunkte dafür, dass der anderen Seite irgendwelche Information vorgehalten wurde.

Es ist allerdings zutreffend, dass die Vervollkommenheit der Herstellungsverfahren fuer kunstlichen Gummi in den Vereinigten Staaten nicht mit der Entwicklung in Deutschland Schritt gehalten hat. Demals war aber in den Vereinigten Staaten Naturgummi zu einem Preise erhoehtlich, der unter den Herstellungskosten fuer kunstlichen Gummi lag. Das Gericht kann mangels weiteren, substantiierten Beweises nicht zu der Ueberzeugung gelangen, dass die Vorenthaltung von Informationen durch die I.G. die Ursache dafuer war, dass die Vervollkommenheit der Herstellungsverfahren fuer kunstlichen Gummi in den Vereinigten Staaten keine Fortschritte machte.

Zur Frage der Propaganda, des Nachrichtenendienstes und der Spionage stellt das Gericht fest, dass die Vertreter der I.G. eine dauerhafte Taetigkeit in Bezug auf industrielle und kaufmaennische Angelegenheiten entfaltet haben. Die deutsche Industrie und die Ueberlegenheit der deutschen Wren wurden angepriesen und ueber alle Massen gelobt. Anerkennende Worte fuer die deutsche Regierung sind allerdings von Zeit zu Zeit veroeffentlicht worden; wir koennen aber nicht zu der Feststellung gelangen, dass die Werbefeldzuge der I.G. den Hauptzweck hatten, die nationalsozialistische Weltanschauung zu predigen. Wir moessen auch der Tatsache keine grosse Bedeutung bei, dass die Vertretungen angewiesen wurden, Anzeigen in Zeitungen zu vermeiden, die feindlich gegen Deutschland eingestellt waren. Derartige Maechtlindon fuer die Werbung erscheinen mit kaufmaennischen Ueberlegungen durchaus vereinbar und brauchen keine politische Bedeutung zu haben. Die sogenannte Spionage-Taetigkeit der I.G.-Vertretungen beschränkte sich auf Handelsespionage. Diese Vertretungen leiteten von Zeit zu Zeit an die I.G. Berichte ueber die industrielle und kaufmaennische Entwicklung auf Gebieten weiter, an denen die I.G. geschaeftlich interessiert war, vor allem ueber Konkurrenzunternehmen. Die Erstattung von Berichten ueber militaerische Angelegenheiten und Ruestungsfragen ist nicht bezeugt worden. Teile der Informationen, die die I.G. von ihren Vertretern erhielt, wurden an die Reichsstellen weitergeleitet. Die Vernehmung hat eindeutig ergeben, dass die I.G. staendig gedrängt worden ist, Nachrichten zu sammeln und an das Reich weiterzuleiten, die sich auf industrielle Entwicklung und Fertigung im Auslande bezogen. Die Voegern der I.G., diesen Anforderungen zu entsprechen und wenigstens die tatsaechlich bereits vorliegenden Fachrichten weiterzuleiten, beweist einen Mangel an Fortschritt zur Aelterbeit und fuehrt zur Verneinung der Frage, ob eine Teilnahme an einer Verschwörung oder eine Kenntnis der Angriffspläne HITLER's vorzuliegen habe.

Die folgenden Angeklagten sind behandelt worden: der Angeklagte KROCH, der gewisse offizielle Posten sowohl bei der I.G. wie beim Reich innehatte; den Angeklagten SCHITZ, der Vorsitz der Vorstands war; den Angeklagten von SCHTILKE, der die führende Persönlichkeit der Kaufmannschaft (Steueren der I.G. war; und der Angeklagte der REER, der der hervorragendste technische Sachverständige war und beträchtlichen Einfluss auf die allgemeine Geschäftsführung der I.G. hatte. Es ist erwiesen, dass sie alle in mehr oder weniger hohem Maße an der Wiederaufrüstung Deutschlands dadurch mitgewirkt haben, dass sie zu Deutschlands wirtschaftlicher Stärke beitrugen und die Fertigung gewisser, für die Kriegsführung höchst wichtiger Grundstoffe veranlassten. Das Beweismaterial ist bei weitem nicht ausreichend, um mit einer an Sicherheit grenzenden Wahrscheinlichkeit darzutun, dass sie verurteilt und verurteilt haben in Kenntnis der Tatsache, dass sie auf diese Weise an der Vorbereitung Deutschlands auf einen Angriffskrieg oder auf Verwicklung mitarbeiten, die schon in allgemeinen Urteilen oder in den Einzelheiten von Adolf HITLER und den ihn umgebenden Kreisen von fanatisch nationalsozialistischen "Civilisten" und "Eliten" geplant worden waren.

Die übrigen Angeklagten, fünfzehn frühere Vorstandsmitglieder und vier Nichtmitglieder, hatten Stellungen inne, die weniger bedeutend waren als diejenigen der bereits erwähnten Angeklagten. Ihr Tätigkeitsfeld war weniger ausgedehnt, und ihre Machtbefugnisse waren weitreniger Natur. Das Beweismaterial in der Frage des Angriffskrieges, das gegen sie vorliegt, ist schwächer als die Beweise gegen diejenigen Angeklagten, deren Verhalten im einzelnen geprüft worden ist. Es erscheint nicht zweckmäßig, in diesem Urteil die Frage der Kenntnis eines jeden einzelnen Angeklagten von den Angriffsabsichten HITLERs einer besonderen Untersuchung zu unterziehen.

Die Angriffskriege:

Es ist noch die Frage zu prüfen, ob durch das Beweismaterialargeten wird, dass einer der Angeklagten sich eines Angriffskrieges im Sinne des Artikels II, 1, (a) des Kontrollgesetzes Nr. 10 schuldig gemacht hat.

Hierzu ist eine Auslegung der genannten Gesetzesbestimmung notwendig. Ist es völkerrechtlich strafbar, wenn der Bürger eines Landes, das ein anderes Land ohne Provokation angegriffen hat, die Leistung aussernehmen seiner Regierung unterstuetzt, oder ist die strafrechtliche Verantwortlichkeit auf diejenigen zu beschranken, die fuer die Formulierung und Durchfuehrung der gressen Politik verantwortlich sind, welche die Fuehrung eines solchen Krieges zur Folge hat ?

In dieser Frage muss daran erinnert werden, dass der Zweck des Kontrollgesetzes Nr. 10 nach dem ausdruecklichen Wortlaut seiner Präambel darin besteht, "die Bestimmungen des Moskauer Deklaration von 30. Oktober 1943 und des Londoner Abkommens von 6. August 1945 sowie des im Anschluss daran erlassenen Statuts zur Ausfuehrung zu bringen." Die Moskauer Deklaration hatte angekündigt, dass die "Deutschen Offiziere, Soldaten und Mitglieder der W.D.P.", die fuer "Gewalttaten, Erschlaechungen und kaltbluetige Massengraebungen" verantwortlich waren, wegen dieser Verbrechen vor Gericht gestellt werden wuerden. Nichts war in der Deklaration ueber die strafrechtliche Verantwortlichkeit fuer einen Angriffskrieg gesagt. Das Londoner Abkommen ist ein Abkommen "fuer die Verfolgung und Bestrafung der Hauptkriegsverbrecher der europäischen Achse". In diesem Abkommen und in dem beigefuegten Statut findet sich nichts was darauf hindeutet, dass die Worte "Fuehrer eines Angriffskrieges", die im Artikel II, (a) des Statuts gebraucht werden, auf alle Personen angewendet werden sollten, die bei der Fuehrung eines Angriffskrieges dem Angreifer Hilfe, Foerderung oder sonstige Unterstuetzungen haben angedeihen lassen; es sei hier hinzugefuegt, dass die Personen, gegen die vor dem I.T. Anklage erhoben und im Verfahren durchgefuehrt wurde, wegen ihrer Tuetigkeit mit Recht als "Hauptkriegsverbrecher" bezeichnet werden koennen. Im Einklang mit dem ausdruecklichen Zweck des Londoner Abkommens, an die "Hauptkriegsverbrecher" heranzukommen, hat das Urteil des I.T. erlaeuert, dass "Gesamtbestrafungen vermieden werden muessen".

Kann man von der Auffassung abgehen wollte, dass nur Hauptkriegsverbrecher - also die Personen im politischen, militaerischen und industriellen Leben, die fuer die Festlegung und Durchfuehrung von grundsuetzlichen politischen Richtlinien

verantwortlich sind - fuer Angriffskriege zur Verantwortung gezogen werden durften, so wurde das zu weit fuehren. In diesen Falle wurde es keine praktische Abgrenzung der strafrechtlichen Verantwortlichkeit geben, die grundsätzlich nicht auch gelten wurde fuer den gemeinen Soldaten auf dem Schlachtfeld, den Bauern, der seine Erzeugung von Nahrungsmitteln vernachlaessigt hat, um die bewaffnete Macht zu erhalten, oder fuer die Hausfrau, die Fett fuer die Munitionsherstellung eingespart hat. Bei einer solchen Auslegung koennte jeder Soldat und jeder Arbeiter in Deutschland nach dem schrankenlosen Ermessen der Anklagebehoerden fuer Angriffskriege verantwortlich gemacht werden. Das aber wurde tatsaechlich zu der Moeglichkeit von Massenbestrafungen fuehren.

Das Problem hat noch eine andere Seite, die nicht uebersehen werden darf. Vor dem IFT ist geltend gemacht worden, dass das Voelkerrecht bis dahin sich nur mit den Handlungen souveraeener Staaten befasst habe und dass die Anwendung des Statute auf Einzelpersonen der Anwendung eines nach der Tat erlassenen Gesetzes gleichkommen wuerde. Das hohe Tribunal fuehrt aus, dass die Straftaten, mit denen es sich beschaeftigt hatte, schon seit langem von den zivilisierten Voelkern als strafbar angesehen wurden, und faehrt dann fort: Verbrechen gegen das Voelkerrecht werden von Menschen und nicht von abstrakten Maechten begangen, und nur durch Bestrafung jener Einzelpersonen, die solche Verbrechen begangen, kann den Bestimmungen des Voelkerrechts Geltung verschafft werden." Die Ausdehnung der Strafbarkeit fuer Verbrechen gegen den Frieden auf die Fuehrer der nationalsozialistischen Militaers und Regierungenmitglieder war daher ein logischer Schritt des IFT. Die Handlungen einer Regierung und ihres Oberkommandos werden durch die einzelnen Personen bestimmt, die die Leitung haben und die Grundzuge der Politik festlegen, welche zu diesen Handlungen fuehren. Wenn man sagen wuerde, dass die deutsche Regierung sich der Fuehrung von Angriffskriegen schuldig gemacht hat, nicht aber die Maenner, die tatsaechlich die Regierung gebildet, den Plan entworfen und seine Durchfuehrung vollendet haben, so wuerde das ein Widerspruch in sich selbst. Nachdem das IFT sich einmal den Grundsatz zu eigen gemacht hatte, dass Einzelpersonen bestraft werden koennen, ist es zu der schwierigen Aufgabe uebergewand, die Frage zu entscheiden, welche der vor ihm stehenden Angeklagten tatsaechlich die Verantwortung getragen haben.

Im vorliegenden Falle sehen wir uns vor der Aufgabe, zu entscheiden, ob Männer aus der Industrie schuldig oder unschuldig an der Föhrung eines Angriffskrieges sind, Industrielle, die nicht die entscheidende Politik gemacht, wohl aber ihre Ägierung in der Wiederaufbauphase unterstützt hatten und ihrer Regierung auch weiterhin während des Krieges gedient haben, dessen Entschelung nach den Feststellungen des Gerichts eine aggressive Handlung gegen ein Nachbarvolk herstellte. HITLER hat seinen Krieg gegen Polen am 1. September 1939 begonnen. Am folgenden Tage haben Frankreich und Grossbritannien Deutschland den Krieg erklärt. Das IRT hat die Frage offengelassen, ob Deutschlands Kriege gegen Frankreich und Grossbritannien Angriffskriege waren. Auch wir brauchen die Frage im vorliegenden Falle nicht zu entscheiden. Wir suchen nur die Antwort auf die entscheidende Frage: Haben die Angeklagten sich der Verbrechen gegen den Frieden dadurch schuldig gemacht, dass sie einen Angriffskrieg oder Angriffskriege geföhrt haben? Selbstverständlich hat die überwiegende Mehrheit der Bevölkerung Deutschlands bis zu einem gewissen Grade die Kriegsföhrung unterstützt. Sie haben Deutschland bei seinem Widerstand sowohl als bei seinen Angriffen geholfen. Deswegen kann ein vernünftiger Mensch gefunden werden, nach dem der Grade der Teilnahme festgestellt werden kann, der notwendig ist, damit der Tatbestand des Verbrechens gegen den Frieden, begangen durch die Föhrung eines Angriffskrieges, als erfüllt angesehen werden kann. Das IRT hat einen strengen Massstab für den Grad der Teilnahme sowohl für diejenigen festgesetzt, die ihr Land in den Krieg gestürzt hatten.

Die Angeklagten, die jetzt vor uns stehen, waren noch hohe Staatsbeamte im dem zivilen Sektor der Regierung noch hohe Offiziere. Ihre Teilnahme war dem Grade nach nie von Mitläufern nicht die von Föhren. Wenn wir den Massstab herabsetzen, der zur Feststellung der Teilnahme erforderlich ist, um auch sie einzuschliessen, dann wird es schwierig, logisch die Stelle zu finden, wo die Grenzlinie zwischen den Schuldigen und den Unschuldigen in der grossen Masse des deutschen Volkes gezogen werden kann. Es ist selbstverständlich undenkbar, dass die Mehrheit aller Deutschen verdammt werden soll mit der Begründung, dass sie Verbrechen gegen den Frieden begangen hatten. Das würde der Billigung des Begriffs der Kollektivschuld gleichkommen, und daraus würde logischerweise Massenbestrafung folgen, für die es keinen Präzedenzfall im Völkerrecht und keine Rechtfertigung in den Verhältnissen zwischen den Menschen gibt.

Wir koennen von einem gewoehnlichen Fuehrer nicht erwarten, dass er sich in eine Zwangslage versetzen laesst, in der er mitten in der aufregenden Kriegsspannung entscheiden muss, ob seine Handlung Recht oder Unrecht hat, oder, wann sie anfaenge im Recht gewesen ist, den Augenblick bestimmen muss, von dem an sie sich ins Unrecht gesetzt hat. Wir koennen nicht verlangen, dass dieser Fuehrer wegen der Moeglichkeit, nach den Bestimmungen des Völkerrechts als Verbrecher zu gelten, sich zu der Ueberzeugung bekennt, dass sein Land zum Angriffen gewesen sei, und dass er seinen Pflichtismus, seine Treue zu seinem Vaterland und die Verteidigung seines eigenen Herdes aufgibt, weil er Gefahr lauft, eines Verbrechens gegen den Frieden beschuldigt zu werden, waehrend er doch andererseits zum Vertreter an seinem eigenen Lande worden wurde, wenn er auf Grund von Tatsachen, von denen er nur ein laesliches Erkenntnis hat, eine falsche Entscheidung trifft. Wurde man eine solche Entscheidung vor ihm verlangen, so wuerde man ihm eine Aufgabe stellen, der sich die Staatsmaenner der Welt und die Voelkerrechtswissenschaftler nicht gewachsen gezeigt haben, als sie versuchten, eine klar umrissene Definition des Begriffs "Verbrechen" zu finden.

Trotz aller Bemuehungen vermoege ich nicht, eine loedliche Trennungslinie zwischen den Schuldigen und Unschuldigen zu ziehen, sobald es sich um Personen handelt, die auf einer tiefen Ebene stehen als die Fuehrer, die ein Land in einen Angriffskrieg gestuert haben. Dermaegen der moeglichen Vorwurf, dass die Schwierigkeit der Aufgabe an sich uns nicht von ihrer Erfuellung abhalten koennte, erlaube ich mir, wenn die Sache der Gerechtigkeit dies erfordert, zu stellen, dass die Trennungslinie, die die von dem Internationalen Gerichtshof im Prozess gegen die Hauptkriegsverbrecher festgelegt worden ist, die wurde gezogen unterhalb des Grades der geistigen Urhaeltung und Fuehrung, wie z.B. GOERING, HESS, VAN KITTENGE, OSTLUND, KEITEL, FICK, FRICK, DOENITZ, WITTEL, JOEL, SCHENCKENBERG und KATZ, die der Fuehrung eines Angriffskrieges fuer schuldig befunden worden sind, und oberhalb der Gruppe derjenigen Generale, deren Beteiligung weniger wichtig war und deren Taetigkeit weder darin bestand, Plaeane zu entwerfen, noch darin, das Feld bei seinen chrysalisartigen Angriffsbewegungen zu laetern. Um zu einer Feststellung der Schuld der Angeklagten an einem Angriffskrieg zu gelangen, wuerden wir diese Trennungslinie verlegen muessen, ohne jedoch Anhaltspunkte fuer die Stelle zu haben, wo sie von neuem zu ziehen waere.

Wir belassen daher die Trennungslinie dort, wo wir sie gefunden haben; denn wir sind der Ansicht, dass Wehrer, die einen Antifaschismus planen, eine Nation in einen solchen Krieg stürzen und die Führung der Nation in einen solchen Krieg übernehmen, wegen Verbrechen gegen den Frieden zur Verantwortung gezogen werden müssen, dagegen nicht die Leute, die den Führern nur gefolgt sind und deren Tätigkeit, wie im Falle SPER, den Kriegsanstrengungen ebenso diene, wie andere Produktionsunternehmen der Kriegsführung gedient haben." (Urteil des Internationalen Militärgerichtshof, Band 1 Seite 374).

Verschöerung:

Wir wollen nunmehr Anklagepunkt FVEF kurz eroerten, der den Angeklagten die Beteiligung an dem gemeinsamen Plan oder der Verschöerung vorwirft. Wir gehen von der grundlegenden Tatsache aus, dass eine Verschöerung wirklich bestanden hat. Nun handelt es sich um die Frage, ob und welche Angeklagten an dieser Verschöerung beteiligt waren.

Es ist hier zweckdienlich, einen Abschnitt auf das INT-Urteil zu zitieren:

"Die Anklagebehörde sagt dem Sinne nach, dass jede bedeutsame Beteiligung an den Angelegenheiten der Nazi-Partei oder der Bewegung einen Beweis fuer die Beteiligung an einer an und fuer sich schon verbrecherischen Verschöerung darstellt.

Der Begriff der Verschöerung ist im Statut nicht definiert. Doch muss nach Ansicht des Gerichtshofes die Verschöerung in Bezug auf ihre verbrecherischen Absichten deutlich gekennzeichnet sein. Sie darf vom Entschluss und von der Tat zeitlich nicht zu weit entfernt sein. Soll das Planen als verbrecherisch bezeichnet werden, so kann das nicht allein von den in einem Parteiprogramm enthaltenen Erklärungen abhängen, wie sie in den im Jahre 1920 verkündeten 25 Punkten der Nazi-Partei zu finden sind, und auch nicht von den in späteren Jahren in "Mein Kampf" enthaltenen politischen Meinungsäußerungen. Der Gerichtshof muss untersuchen, ob ein konkreter Plan zur Kriegsführung bestand, und bestimmen, wer an diesem konkreten Plan teilgenommen hat." (Vol. 1, Seite 251, INT-Urteil).

Um als Teilnehmer an einem gemeinsamen Plan oder einer Verschöerung zu gelten, muss der Angeklagte selbstverständlich von dem Plan oder der Verschöerung Kenntnis haben. Zu diesem Punkt verweisen wir auf einen Fall, der sowohl von der Anklagebehörde wie von der Verteidigung eingeführt worden ist, nämlich den Prozess der United States Company gegen die Vereinigten Staaten, 319 U.S. 703, 53 S.Ct. 1265. Dort wird der Fall Vereinigte Staaten gegen Falco, 311 U.S. 205, 51 S.Ct. 204, 65 L.ed. 126, eroert, und der Oberste Gerichtshof der Vereinigten Staaten nimmt die folge Stellung:

„Diese Entscheidung basiert also nur, dass niemand da war, um teilzunehmen an einer Verschwörung, wenn er sie begünstigt oder fördert, zum Beispiel durch Überlassung von Waffen, wenn er nicht weiss, dass es sich um eine Verschwörung handelt; das Bestehen dieser Kenntnis kann nicht einfach aus der Tatsache geschlossen werden, dass er weiss, dass der Käufer die Waren zu geschäftlichen Zwecken verwenden wird.“

Später heisst es in der Urteilsbegründung in Bezug auf den Vorsatz des Verkäufers, die von dem Käufer beabsichtigte geschäftliche Verwendung der Waren zu fördern und sich daran zu beteiligen:

„Dieser Vorsatz stellt, wenn er durch eine nach aussen in Erscheinung tretende Handlung bestätigt worden ist, das Grundelement einer Verschwörung dar. Er ist zwar nicht identisch mit der blossen Kenntnis der Tatsache, dass ein anderer eine geschäftliche Handlung beabsichtigt, steht aber in Zusammenhang mit einer solchen Kenntnis. Ohne die Kenntnis kann der Vorsatz nicht bestehen. (Verurteilte Staaten gegen Salomon, siehe oben). Weiterhin muss zum Zweck der Feststellung des Vorsatzes die Kenntnis klar und unmissverständlich erwiesen worden sein (Ibid). Der Grund hierfür ist, dass Anklagen wegen Verschwörung nicht in der Weise begründet werden dürfen, dass man eine Schlussfolgerung auf die andere basiert und auf diese Weise, wie es in einem Prozess hiess, eine Art Schlussatz zusammenfügt, in dem man alle materiellen Straftaten erfassen kann.“

Zu Anklagepunkt I/IV ist erklärt worden, dass die unter Anklagepunkt I/II aufgeführten Handlungen der Angeklagten und ihr fort beschriebenes Verhalten, sowie alle unter Anklagepunkt I/II erhobenen Verschuldigungen auch zur Fortsetzung der in Anklagepunkt I/IV erhobenen Anklage vorgetragen werden. Wie wir bereits zu dem Urteil gekommen sind, dass keiner der Angeklagten sich an der Planung eines Angriffskrieges beteiligt oder wesentlich bei der Vorbereitung und Entfesselung oder Föhrung eines Angriffskrieges oder mehrerer Angriffskriege oder bei Invasionen in andere Länder mitgewirkt hat, so ergibt sich, dass sie sich des ihnen zur Last gelegten Verbrechens der Teilnahme an einem gemeinsamen Plan oder einer Verschwörung, die dieselben Dinge zum Ziel hätten, nicht schuldig gemacht haben.

Die Entscheidung ergibt also dahin, dass keiner der Angeklagten der unter Anklagepunkt I/II und I/IV aufgeführten Verbrechen schuldig ist. Sie werden deshalb von den ihnen in diesen Anklagepunkten zur Last gelegten Straftaten freigesprochen.

ANKLAGEPUNKT ZWEI:

Inhalt der Beschuldigung:

Unter Anklagepunkt II der Anklageschrift werden alle Angeklagten beschuldigt, Kriegsverbrechen und Verbrechen gegen die Menschlichkeit begangen zu haben. Es wird behauptet, dass Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im Sinne des Kontrollratsgesetzes Nr.10 dadurch begangen worden seien, dass die Angeklagten während der Zeit vom 12. März 1938 bis zum 8. Mai 1945 sich der I.G. als Werkzeug bedienten, um sich an der Plünderung öffentlichen und privaten Eigentums, an Ausbeutung, Raub und anderen Eigentumsvergehen in Ländern und Gebieten zu beteiligen, die im Verlaufe der deutschen kriegerischen Einfälle und Angriffskriege während der Feindseligkeiten von Deutschland besetzt gehalten wurden." Die Anklage fußt aus, dass die aufgeführten Einzelhandlungen Verletzungen von Kriegsgesetzen und -gebräuchen, von internationalen Verträgen und Abmachungen, unter anderem Verletzungen der Artikel 46 bis 56 der Haager Landkriegsordnung vom Jahre 1907, und der allgemeinen Grundsätze des Strafrechts, wie sie sich aus den Strafgesetzen aller zivilisierten Völker ergeben, sowie des innerstaatlichen Strafrechts der Länder, in denen diese Verbrechen begangen wurden, und des Artikels II des Kontrollratsgesetzes Nr.10 darstellen."

Die Anklageschrift erhebt die Beschuldigung, dass die Handlungen rechtswidrig, vorsätzlich und absichtlich begangen worden seien, und dass die Angeklagten sich strafbar gemacht haben, weil sie "als Täter oder als Beihilfer bei der Begabung solcher Verbrechen mitgewirkt, sie befohlen, angestiftet, durch ihre Zustimmung daran teilgenommen, mit deren Planung und Ausführung in Zusammenhang gestanden und Organisationen oder Vereinigungen, einschliesslich der I.G. angehört haben, die mit ihrer Ausführung in Zusammenhang standen."

Die Anklageschrift geht aus von den allgemeinen Feststellungen des DRG in Bezug auf Raub und Plünderung und erhebt dann die folgende Beschuldigung: "Die I.G. marschierte mit der Wehrmacht und spielte eine Hauptrolle in Deutschlands Programm, sich durch Eroberung zu bereichern. Sie benutzte ihre technische Sachkunde und ihre Hilfsquellen, um die chemische Industrie und verwandte Industrien Europas zu plündern und auszubenten, die deutsche Kriegsmaschine zu stärken

und die Unterjochung der eroberten Länder unter die deutsche Wirtschaft zu sichern. Zu diesem Zwecke unternahm die I.G. es, bis in die Einzelheiten gehende Pläne zu entwerfen, anzulegen und vorzubereiten, um mit der Hilfe der deutschen bewaffneten Macht die chemischen Industrien Österreichs, der Tschechoslowakei, Polens, Norwegens, Frankreichs, Russlands und anderer Länder zu erwerben.² Die Einzelheiten der behaupteten Raub- und Plünderungsakte sind in den Unterabschnitten A - F des Anklagepunktes Z.II aufgeführt und brauchen hier nicht wiederholt zu werden.

Die Straftaten, deren Begehung unter Anklagepunkt Z.II behauptet wird, werden den Angeklagten nicht nur als Kriegsverbrechen, sondern auch als Verbrechen gegen die Menschlichkeit zur Last gelegt. Durch einen am 22. April 1948 gefassten Beschluss hat der Gerichtshof einen von der Verteidigung vorgelegten Antrag stattgegeben, der die Schlussigkeit der Unterabschnitte A und B des Anklagepunktes Z.II der Anklageschrift in Abrede stellte (Ziffern 90 bis 96), soweit sie sich auf den Vorwurf des Raubes und der Plünderung von Eigentum in Österreich, im Sudetenland und in der Tschechoslowakei bezogen. Der Gerichtshof hat entschieden, dass die erwachten Handlungen, selbst wenn sie einwandfrei bewiesen werden könnten, nicht als Verbrechen gegen die Menschlichkeit angesehen werden könnten, da die zum Vorwurf gemachten Handlungen nur Eigentumsdelikte darstellten. Der damalige Beschluss des Gerichtshofs beschränkte sich auf den Erwerb von Skoda-Werkzeugen und von Aussig-Falkenau, die damals behandelt wurden, aber die Begründung, auf die dieser Teil des Beschlusses sich stützte, gilt ebenso für Anklagepunkt Z.II der Anklageschrift in seiner Gesamtheit, soweit es sich um den Vorwurf von Verbrechen gegen die Menschlichkeit handelt.

Das Kontrollratsgesetz sieht vor, dass Verbrechen gegen die Menschlichkeit dann strafbar sind, wenn sie unter die folgende Aufzählung fallen:

"(c) Verbrechen gegen die Menschlichkeit. Gewalttaten und Vergehen, einschliesslich der folgenden den obigen Tatbestand jedoch nicht erschöpfenden Beispiele: Mord, Ausrottung, Versklavung, Zwangsverschleppung, Freiheitsberaubung, Folterung, Vergewaltigung oder andere an der Zivilbevölkerung begangene unmenschliche Handlungen; Verfolgung aus politischen, rassischen oder religiösen Gründen, ohne Rücksicht darauf, ob sie das nationale Recht des Landes, in welchem die Handlung begangen worden ist, verletzen."

Wir schliessen uns der Auslegung an, die der Militärgerichtshof IV in seinem Urteil im Prozess der Vereinigten Staaten von Amerika gegen Friedrich FLICK und Genossen in Bezug auf die Tragweite und die Anwendung der erwähnten Bestimmung auf Eigentumsdelikte gegeben hat. Dieser Gerichtshof hat ausgeführt:

"Die 'Gewalttaten und strafbaren Handlungen', die dort genannt sind, 'Mord, Vernichtung' usw., sind durchweg Handlungen gegen die körperliche Unversehrtheit. Eigentum ist nicht erwähnt. Nach dem Grundsatz, dass Verallgemeinerungen sich nur auf gleichartige Begriffe beziehen dürfen, sind die zusammenfassenden Worte 'andere Verfolgungen' dahin auszulagen, dass sie nur auf solche Verfolgungen anzuwenden sind, die sich gegen das Leben und die Freiheit der unterdrückten Völker richten. Die gewaltsame Jagnahme von Industrievermögen ist zwar keineswegs zu billigen, fällt aber nicht in diese Gruppe. Hinzugefügt sei, dass die Worte, 'gegen irgendeine Zivilbevölkerung' in diesem Abschnitt kuerzlich das Tribunal III zu der Auffassung veranlasst haben, 'dass der Begriff 'Verbrechen gegen die Menschlichkeit' im Sinne des Kontrollratgesetzes Nr. 10 eng dahin ausgelegt werden muss, dass vereinzelter Faelle von Gewalttaten oder Verfolgungen nicht darunter fallen, gleichgueltig ob sie von Privatpersonen oder auf Veranlassung der Regierung begangen worden sind.' (USA gegen Altstoetter und Genossen, Entscheidung vom 4. Dezember 1947). Selbst wenn man daran denken koennte, dass die Vorgaenge, mit denen wir befasst sind, als Verbrechen gegen die Menschlichkeit gemass Gesetz Nr. 10 angesehen werden koennten, wird diese Moeglichkeit durch die erwaehnte Entscheidung ausgeschlossen. (Prot. 3.10758).

In Uebereinstimmung mit dieser Auffassung werden die anderen Einzeltaten von Pluenderung, Ausbeutung und Raub, die den Angeklagten in den Abschnitten C, D, E und F in Anklagepunkt Z.II der Anklageschrift zur Last gelegt worden, nur insoweit untersucht werden, als die zur Last gelegten Handlungen den Tatbestand der Kriegsverbrechen erfuellen koennten.

Es muss auch in Betracht gezogen werden, dass der erkuennende Gerichtshof in dem vorher erwaehnten Beschluss vom 22. April 1948 weiterhin entschieden hat, dass die in Unterabschnitt A und B des Anklagepunkt Z.II aufgefuehrten Einzeltaten, die sich auf Vermoegenswerte in Oesterreich und i. Sudetenland beziehen, keine Kriegsverbrechen darstellen, da die Vorfaelle sich in Gebieten ereignet haben, die nicht unter der Besetzung der deutschen Truppen in einem Kriegsstande.

Wir haben dargelegt, dass die Haager Landkriegsordnung in diesem Falle nicht angewandt werden kann, da ein tatsaechlicher Kriegszustand weder in Oesterreich, das durch den Anschluss in das deutsche Reich eingegliedert worden war, noch in Sudetenland, das unter den Muenchner Pakt fiel, festgestellt werden konnte. Diese Entscheidung laesst nicht die Gewichtigkeit des Einwands ausser Acht,

dass Vermögenswerte, die sich in dem Gebiet eines schwachen Staates befinden, der wegen seiner mangelnden Widerstandskraft einem Angreifer zum Opfer gefallen ist, in derselben Weise beschlusetzt werden mussten, wie es bei einer kriegerischen Besetzung nach Ausbruch tatsächlicher Feindseligkeiten der Fall ist. Der Gerichtshof muss aber das Völkerrecht so anwenden wie er es vorfindet, und zwar in den Grenzen der Zuständigkeit, die er nach Kontrollratgesetz Nr. 10 hat. Wir dürfen uns keine erweiterte Zuständigkeit anmassen. Wenn die Handlung kein Kriegsverbrechen im Sinne einer Verletzung von Kriegsgesetz und Kriegsgebrauch darstellt, steht es nach unserer Auslegung von Kontrollratgesetz Nr. 10 nicht in unserer Macht, die Beschuldigung zu untersuchen, ob das Verhalten beim Erwerb derartiger Vermögenswerte noch so verurteilenswert gewesen sein. Wegen der begrenzten Zuständigkeit des erkennenden Gerichtshofes ist die Lage nicht die gleiche als wenn zum Beispiel die strafrechtliche Bedeutung dieser Transaktionen eines österreichischen oder irgendeines anderen Gerichtshof mit weiter ausgedehnter Zuständigkeit zur Prüfung vorliegen würde.

Im Hinblick mit dieser Entscheidung müssen die restlichen Beschuldigungen, die unter Anklagepunkt Z III zu behandeln sind, darauf geprüft werden, ob die Behauptung, dass die Angeklagten Kriegsverbrechen im Zusammenhang mit Vermögenswerten in Polen, Frankreich, Elsass-Lothringen, Norwegen und Russland begangen haben, nachgewiesen ist oder nicht.

Das fuer Raub und Plünderung in Frage kommende Gesetz:

Der hier in Frage kommende Teil des Kontrollratgesetzes Nr. 10, der das fuer den erkennenden Gerichtshof bindende, im vorliegenden Falle zur Anwendung zu bringende Gesetz darstellt, ist Artikel II, Ziffer (1), Unterabteilung (b). Die Bestimmung lautet wie folgt:

"Jeder der folgenden Tatbestände stellt ein Verbrechen dar:

.....

"(b) Kriegsverbrechen. Gewalttaten oder Vergehen gegen Leib, Leben oder Eigentum, begangen unter Verletzung der Kriegsgesetze oder -gebräuche, einschliesslich der folgenden von obigen Tatbestand jedoch nicht erschöpfenden Beispiele: Mord, Misshandlungen der Zivilbevölkerung der besetzten Gebiete, ihre Verschleppung zur Zwangsarbeit oder anderen Zwecken

oder die Anwendung der Sklavenerbeit in dem besetzten Gebiet selbst, Mord oder Misshandlung von Kriegsgefangenen, Personen auf hoher See; Tötung von Geiseln; Plünderung von öffentlichen oder privaten Eigentümern; vorsätzliche Zerstörung von Stadt oder Land; oder Verwüstungen, die nicht durch militärische Notwendigkeit gerechtfertigt sind." (Unterstreichen, an dem Bericht hinzugefügt).

Die hier zitierte Bestimmung deckt sich mit Artikel 6, Unterabteilung (b) des Statuts des I.E., und das I.E. hat festgestellt, dass die in der letzteren Vorschrift aufgezählten Straftaten schon vor dem Statut des I.E. nach Völkerrecht als Kriegsverbrechen gegolten haben. Deshalb kann es sich in diesem Falle nicht um eine Verletzung des Rechtsgrundsatzes nullus crimen sine lege handeln. Plünderung von öffentlichen und privaten Eigentümern muss als ein allgemein anerkanntes völkerrechtliches Delikt angesehen werden. Wie sich aus der zitierten Bestimmung des Kontrollratgesetzes klar ergibt, muss jeder Angeklagte, dessen Mißbräukung an Eigentumsdelikten unter die in Kontrollratgesetz als strafbar aufgeführten Teilnahmeformen fällt, in diesem Punkt der Anklageschrift für schuldig befunden werden, wenn ein solches Eigentumsdelikt tatsächlich begangen worden ist, oder wenn die Beweisaufnahme mit einer an Sicherheit grenzenden Wahrscheinlichkeit ergeben hat, dass andere Eigentumsdelikte begangen worden sind, die eine Verletzung von Kriegsgesetz und Kriegsbrauch darstellten.

Die vier Eigentumsdelikte massgebenden Kriegsgesetze und Kriegsbrauche sind in der Haager Konvention von 1907 und in dem zugehörigen Fechtreglement zusammengefasst, das als "Haager Landkriegsordnung" bekannt ist.

Die folgenden Bestimmungen der Haager Landkriegsordnung kommen für die hier zu prüfenden Beschuldigungen besonders in Frage:

"Artikel 45. Die Ehre und die Rechte der Familie, des Lebens der Bürger und des Privateigentums sowie die religiösen Überzeugungen und gottesdienstlichen Handlungen sollen geschützt werden. Das Privateigentum darf nicht eingezogen werden.

"Artikel 47. Die Plünderung ist ausdrücklich untersagt.

"Artikel 52. Naturalleistungen und Dienstleistungen können von Gemeinden oder Einwohnern nur für die Bedürfnisse des Besatzungsheeres gefordert werden. Sie müssen im Verhältnisse zu den Hilfsquellen des Landes stehen und solcher Art sein, dass sie nicht für die Bevölkerung die Verpflichtung enthalten, an Kriegerunternehmungen gegen ihr Vaterland teilzunehmen.

"Derartige Natural- und Dienstleistungen koennen nur mit Ermuechtigung des Befehlshabers der besetzten Oertlichkeit gefordert werden.

"Die Naturalleistungen sind so viel wie moeglich bar zu bezahlen. Anderenfalls sind dafuer Empfangsbestaetigungen auszustellen; die Zahlung der geschuldeten Summen soll moeglichst bald bewirkt werden.

"Artikel 53. Das ein Gebiet besetzende Heer kann nur mit Beschlag belagen: das bare Geld und die Fortbestaende des Staates sowie die dem Staate zustehenden eintreibbaren Forderungen, die Auffenniederlagen, Befoerderungsmittel, Vorratskassener und Lebensmittelvorraete sowie ueberhaupt alles bewegliche Eigentum des Staates, das geeignet ist, den Kriegsunternehmungen zu dienen.

"Alle Mittel, die zu Lande, zu Wasser und in der Luft zur Weitergabe von Nachrichten und zur Befoerderung von Personen oder Sachen dienen, mit Ausnahme der durch das Seerecht geregelten Faele, sowie die Auffenniederlagen und ueberhaupt jede Art von Kriegsvorraeten koennen, selbst wenn sie Privatpersonen gehoeren, mit Beschlag belegt werden. Beim Friedensschlusse muessen sie aber zurueckgegeben und die EntschaeDIGungen geregelt werden.

.....

"Art. 55. Der besetzende Staat hat sich nur als Verwalter und Intendant der oeffentlichen Gebaeude, Liegenschaften, Maelder und landwirtschaftlichen Betriebe zu betrachten, die dem feindlichen Staate gehoeren und sich in den besetzten Gebieten befinden. Er soll den Bestand dieser Gueter erhalten und sie nach den Regeln des Misbrauchs verwalten."

Die vorstehenden Bestimmungen der Haager Landkriegsordnung zielen im Grossen und Ganzen darauf hin, die Unverletzlichkeit des oeffentlichen und privaten Eigentums in Zeiten militaerischer Besetzung zu wahren. Sie lassen Ausnahmefaele fuer Enteignung, Benutzung und Requisition zu, die jedoch saentlich genau definierten, in den Artikeln festgelegten Beschruekungen unterworfen sind. Wenn private natuerliche und juristische Personen die militaerische Besetzung dazu ausnutzen, sich Privateigentum gegen den Willen und die Zustimmung des fruheren Besitzers anzueignen, so stellt eine solche Handlung, wenn sie nicht ausdrucklich durch irgend eine anwendbare Vorschrift der Haager Bestimmungen gerechtfertigt ist, eine Verletzung des Voelkerrechtes dar.

Die Zahlung eines Kaufpreises oder eine andere angemessene Entschädigung ist unter solchen Umständen nicht dazu angetan, der Handlung ihren unrechtmässigen Charakter zu nehmen. Wenn eine natürliche oder juristische Person an einer unrechtmässigen Enteignung öffentlichen oder privaten Eigentums durch Entwurf oder Ausführung eines bestimmten sorgfältig ausgearbeiteten Plans zum dauernden Erwerb solcher Vermögenswerte teilnimmt, so stellt ein unter derartigen Umständen nach der Enteignung durchgeführter Erwerb ebenfalls eine Verletzung der Haager Bestimmungen dar.

Diese Hauptgrundsätze, wie sie aus den Haager Bestimmungen abgeleitet sind, genügen im Allgemeinen, um eine gerechte Verurteilung der unter Punkt XXI der Anklage erhobenen Beschuldigungen der Verletzung des Eigentums zu gewährleisten. Über die folgenden zusätzlichen Bemerkungen sind ebenfalls wichtig, um unsere Anwendung des Gesetzes auf den durch das Beweismaterial erwiesenen Tatbestand verständlich zu machen.

Ins die Gesetzessprache anlangt, so benutzen die Haager Bestimmungen nicht ausdrücklich das Wort "Spoliation", aber wir sind nicht der Ansicht, dass das von juristischer Bedeutung ist. In der Anklageschrift wird dieser Ausdruck abwechselnd mit den Worten "Plünderung" und "Ausbeutung" angewandt. Es kann daher als richtig angenommen werden, dass der Ausdruck "Spoliation", der von der Anklagebehörde zugegebenerweise angewandt wurde, da er ihr als der geeignetste erschien, sich auf die weitverbreiteten und systematischen Akte der Enteignung und Aneignung von Besitz unter Verletzung der Rechte der Eigentümer bezieht, welche in Gebieten unter der militärischen Besetzung oder Herrschaft des nationalsozialistischen Deutschlands während des zweiten Weltkriegs stattgefunden haben. Wir sind der Ansicht, dass das Wort "Spoliation" ein Synonym des im Kontrollratsgesetz Nr. 10 gebrauchten Wortes "Plünderung" ist und Eigentumsdelikte allgemeiner Art in Verletzung von Kriegerecht und Kriegsgebrauch einschliesst, wie sie in der Anklageschrift aufgeführt worden. In diesem Sinne werden wir den Ausdruck "Spoliation" in diesem Urteil übernehmen und zur Bezeichnung der erwachten Vergehen anwenden.

Es ist eine geschichtliche Tatsache, die wir von Answegen zur Kenntnis nehmen koennen, dass die Pluenderung und der Abtransport von Besitztumern aller Art aus Laendern, die von den Achsenmaechten besetzt waren, einen so grossen Umfang angenommen hatten und so verschieden in ihrer Art und Weise und ihren Methoden waren - sie umfassten alle Formen von planmaessiger Pluenderung bis zu den ausserordentlich so verschiedenen, in der Wirkung gleichen, schlaue getarnten Transaktionen, die den Anschein der Gesetzmassigkeit hatten -, dass die Alliierten am 5. Januar 1943 es fuer notwendig hielten, eine gemeinsame Erklaerung abzugeben, in der solche Handlungen an den Pranger gestellt wurden. Die Interalliierte Erklaerung ist von 17 Regierungen der Vereinten Nationen und den franzoesischen Nationalen Ausschuss unterzeichnet. Sie gab der Entschliessung der Signatarmaechte Ausdruck, "die vom Feind durchgefuehrte Pluenderung von Gebieten, die von ihm ueberrannt oder unter seine Herrschaft gebracht waren, zu bekampfen und unmoeglich zu machen." In der Erklaerung wird darauf hingewiesen, dass die systematische Spoliation der vom Feind besetzten oder beherrschten Gebiete in jedem Falle sofort auf einen neuen Angriff gefolgt ist." Es heisst in der Erklaerung, dass eine solche Spoliation:

"...jegliche Form angenommen hat, angefangen von offener Pluenderung bis zur raffiniert getarnten finanziellen Durchgruendung, und sich auf jede Art von Vermoegenwerten erstreckt hat - von Kunstwerken angefangen bis zu Gebrauchsgegenstaenden, von Goldbarren und Banknoten bis zu Aktien und Besitzanteilen an Geschaeften und finanziellen Unternehmen. Aber das Ziel ist immer das gleiche - alle Werte, die dem Angreifer von Nutzen sein koennten, an sich zu bringen und sodann die gesamte Wirtschaft der unterworfenen Laender zu beherrschen, so dass sie versklavt werden, um ihre Bedruecker zu bereichern und zu staerken."

Die Signatarmaechte erachteten es fuer wichtig, wie es in der Erklaerung heisst, "nicht den geringsten Zweifel an ihrer Entschlossenheit zu lassen, die gegen Vermoegenwerte gerichteten Missetaten ihrer Feinde weder anerkennen noch zu dulden, moegen sie auch noch so gut getarnt sein, genau so wie sie kuerzlich ihre Entschlossenheit betont haben, die Kriegsverbrecher fuer ihre Verbrechen gegen Personen in den besetzten Gebieten zur Verantwortung zu ziehen." Die Erklaerung schloss mit der bedeutsamen Feststellung, dass die Nationen, welche diese Erklaerung abgeben, sich alle ihre Rechte vorbehalten:

"...alle Eigentumsübertragungen und sonstige Verfügungs- und Verpflichtungsgeschäfte über Sachen, Recht und Interessen aller Art fuer nichtig zu erklæren, welche in den Gebieten belegend sind oder waren, die unter der unmittelbaren oder mittelbaren Besetzung oder Herrschaft der Staaten stehen, mit denen sie sich im Kriege befinden, oder welche den in den genannten Gebieten ansæssigen natuerlichen oder juristischen Personen gehoeren oder gehoert haben. Diese Anerkennung findet Anwendung auf alle Eigentumsübertragungen und sonstigen Verfügungs- oder Verpflichtungsgeschäfte, gleichgueltig, ob sie im Wege offener Pluenderung oder Beraubung oder ob sie in der Form æusserlich gueltiger Rechtsgeschäfte erfolgt sind, und zwar auch in den Faellen anscheinend freiwilliger Vornahme dieser Rechtsgeschäfte."

Zwar stellt die interalliierte Erklærung kein Gesetz dar und haette nicht mit rueckwirkender Kraft ausgestattet werden koennen, selbst wenn versucht worden waere, Straf-Vorschriften ueber die Bestrafung der erwœhnten Handlungen in die Erklærung aufzunehmen; es ergibt sich aber aus der Erklærung, dass Verletzungen der in der Erklærung genannten Rechte von den Signatarmächten als Handlungen angesehen wurden, die eine Verstoss gegen das bestehende Voelkerrecht darstellen.

Unserer Ansicht nach ist die Fassung der die Eigentumsdelikte betreffenden Haenger Bestimmungen recht allgemein und laesst keine Unterscheidung zu zwischen "Pluenderung", im engen Sinne des Wortes, das heisst, Aneignung der Sachen, die den Gegenstand des Verbrechens bilden, und der Pluenderung oder Spoliation, die durch Erwerb von Rechten begangen wird, zum Beispiel durch Erwerb von Aktienbesitz oder durch Erwerb der Inhaberschaft oder der Kontrolle eines Unternehmens mit anderen Mitteln, auch wenn sie æusserlich den Anschein der Rechtmæssigkeit haben.

Wir finden, dass das Tatbestandsmerkmal des Verbrechens der Pluenderung oder Spoliation darin besteht, dass der Besitzer ohne seine Zustimmung und gegen seinen Willen sein Eigentum verliert. Aus den Bestimmungen der Erklærung, die wir zitiert haben, geht klar hervor, dass Ungueltigkeit und Ungesetzmaessigkeit des Rechtsgeschäfts nicht anzunehmen ist, auch nicht fuer die Zwecke eines burgerlichen Rechtsstreits auf Feststellung der Nichtigkeit, es sei denn, dass das Rechtsgeschäft tatsaechlich unfreiwillig vorgenommen worden ist. Es wuerde nicht folgerichtig sein, einen Akt des Eigentumserwerbs in der Zeit der Besitzwæhrend der Fortdauer der Feindseligkeiten als strafbar anzusehen, wenn die Eigentumsübertragung ^{Tege} in eine Klage auf Feststellung der Nichtigkeit und auf Herausgabe nicht fuer ungueltig erklært werden kann.

Die Anklagebehörde vertritt nun die Ansicht, dass die Delikte der Plünderung und der Spoliation, die in der Anklage aufgeführt sind, zwei verschiedene Rechtsgüter verletzen. Es wird dem Sinne nach behauptet, dass das Delikt der Spoliation "ein Verbrechen gegen das betreffende Land ist, weil es das Wirtschaftsleben in Unordnung bringt, die Industrie ihrem eigentlichen Aufgabenkreis entfremdet und sie den Interessen der Besatzungsmacht dienstbar macht, und in den natürlichen Zusammenhang zwischen der ausgeraubten Industrie und dem örtlichen Wirtschaftsleben eingreift. Soweit es sich um die Verletzung dieses Rechtsgutes handelt, bedarf die Zustimmung des Eigentümers oder der Eigentümer oder ihrer Vertreter, auch wenn sie vernünftigerweise ist, nichts an der Strafbarkeit der Handlung."

Was das zweite Rechtsgut anbelangt, so wird geltend gemacht, dass das Delikt der Spoliation sich richtet "gegen den oder die rechtmässigen Eigentümer, denen ihr Eigentum ohne Rücksicht auf ihren Willen weggenommen wird (Beschlagnahme), oder deren "Zustimmung durch Drohungen oder Zwang herbeigeführt wird."

Wir können aus den Artikeln 46 bis 55 der Haager Bestimmungen keinen Grundsatz herleiten, der weitreichend genug ist, um den Schluss zu rechtfertigen, dass auch das zuerst beschriebene Rechtsgut durch die Vorschriften über Plünderung und Spoliation geschützt werden sollte. Auf Grund der Haager Bestimmungen "muss Privateigentum beachtet werden" (Artikel 46, Absatz 1). "Plünderung ist ausdrücklich verboten" (Artikel 47) und "Privateigentum darf nicht eingezogen werden." (Artikel 46, Absatz 2). Das Recht, Leistungen von der Bevölkerung zu fordern, beschränkt sich auf "die Bedürfnisse des Besatzungsheeres"; es darf nicht ausser Verhältnis zu den Hilfsquellen des Landes stehen und nicht solcher Art sein, dass es die Verpflichtung über die Bevölkerung enthält, an Kriegsunternehmungen gegen ihr Vaterland teilzunehmen. Soweit es sich um Privateigentum handelt, betreffen diese Bestimmungen jedoch nur, Plünderung, Beschlagnahme und Leistungszwang, und das wiederum setzt voraus, dass das von diesen Massnahmen betroffene Eigentum gegen den Willen und ohne die Zustimmung des Eigentümers in Anspruch genommen wird. Vergeblich suchen wir in den Haager Bestimmungen eine Vorschr

welche die weitgehende Auffassung rechtfertigen wuerde, dass private Staatsbuurger des Landes, das die militaerische Besetzung durchfuehrt, auch dann nicht das Recht haben, in besetzten Gebieten Ver-^{traege} ueber Vermoegenswerte abzuschliessen, wenn die Einwilligung des Inhabers tatsaechlich freiwillig gegeben wird. Dies ist von Wichtigkeit fuer die Wuerdigung des Beweisergebnisses hinsichtlich der einzelnen Handlungen unter dem Gesichtspunkt, dass die Strafaelligkeit in jedem einzelnen Falle und fuer jeden Angeklagten gesondert festgestellt werden muss. wenn ein Vertrag, der sich auf den Verkauf eines industriellen Unternehmens oder damit gleichwertiger Interessen bezieht, zwar unter der militaerischen Besetzung, aber tatsaechlich ohne Zwang zustande gekommen ist, und wenn der Eigentuer seine Einwilligung in der Tat freiwillig gegeben hat, so stellt das nach unserer Ansicht keine Verletzung der Haager Bestimmungen dar. Die gegenteilige Auslegung wuerde es in Kriegszeiten fuer die Besatzungsmacht schwierig, wenn nicht sogar unmoeglich machen, andere Teile ihrer voelkerrechtlichen Verpflichtungen durchzufuehren, zum Beispiel die Wiederherstellung der Ordnung in der Wirtschaft des Landes im Interesse seiner Einwohner (Artikel 43, der Haager Bestimmungen). wenn auf der anderen Seite die Handlung des Eigentuers keine freiwillige ist, weil seine Einwilligung durch Drohung, Einschuechterung, Druck oder Ausnutzung der Stellung und Macht des Besetzenden unter Umstaenden herbeigefuehrt worden ist, aus denen sich ergibt, dass der Eigentuer gegen seinen Willen zu Aufgabe seines Eigentums veranlasst worden ist, dann liegt offenbar eine Verletzung der Haager Bestimmungen vor. Das blosse Vorhandensein einer militaerischen Besetzung ist kein zwingender Beweis fuer behaupteten Druck. Sicherlich muss da, wo es sich um Handlungen von privaten natuerlichen oder juristischen Personen handelt, die Beweisfuehrung weitergehen und dargetun, dass ein Rechtsgeschaeft, das aeuesserlich nach Form und Inhalt wirksam erscheint, nicht freiwillig, sondern infolge von Anwendung von Druckmitteln abgeschlossen worden ist. Weiterhin muss ein ursaechlicher Zusammenhang zwischen den angewandten gesetzwidrigen Mitteln und dem durch die Einschuechterung herbeigefuehrten Erfolg bestehen.

Nach dieser Auslegung der Haager⁶⁴ Bestimmungen ist eine der entscheidenden Tatfragen, die bei den meisten der

in Anklagepunkt ZWEI aufgezählten Spoliationshandlungen auftauchen,

die Frage, ob die Eigentümer von Vermögenswerten in besetzten Gebieten zur dauernden Aufgabe ihres Eigentums unter solchen Umständen veranlasst worden sind, dass ihre Einwilligung nicht als eine freiwillige anzusehen ist. Von privaten Personen abgeschlossene kaufmännische Rechtsgeschäfte, die durchaus zulässig und gesetzesmäßig in Friedenszeiten oder in Zeiten einer Besetzung nach Beendigung der Feindseligkeiten sein moegen, koennen eine gaendere Beurteilung erfordern, wenn sie waehrend einer kriegerischen Besetzung abgeschlossen sind, und muessen, wenn es sich um den Erwerb von Vermögenswerten handelt, zur Entscheidung der Frage genauestens gepraefert werden, ob die Vermögensrechte, die durch die Haager Bestimmungen geschuetzt sind, ordnungsmässig gewahrt worden sind. Die Anwendung dieser Grundsätze wird bei der Untersuchung der Verantwortlichkeit derjenigen Vorstandsmitglieder der I. O. Bedeutung erlangen, gegen die in der Anklageschrift Vorwürfe erhoben worden, die aber persönlich nur insoweit an den Verhandlungen oder sonstigen zu der behaupteten Spoliation fuhrernden Massnahmen beteiligt waren, als sie dem Vorstand als Mitglieder angehörten.

Es kann nicht laenger bezweifelt werden, dass die voelkerrechtlichen Straffvorschriften auch auf Einzelpersonen anwendbar sind. In dem Urteil des Militaergerichtes IV, Vereinigte Staaten gegen Flick (Fall Nr. 5) heisst es:

"Die Frage der Verantwortlichkeit von Einzelpersonen fuer derartige Verletzungen des Voelkerrechtes, die Verbrechen darstellen, ist vielfach erörtert und teilweise durch das Urteil des IMT entschieden worden. Der Standpunkt, dass das Voelkerrecht sich nur mit den Handlungen selbstaendiger Staaten beschaeftigt und keine Bestrafung von Einzelpersonen vorsehe, kann nicht laenger aufrecht erhalten werden."

Und weiter:

"Handlungen, die als strafbar anzusehen sind, wenn sie von einem Regierungsbeamten begangen werden, sind auch strafbar, wenn sie von einer Privatperson begangen sind. Ein Unterschied in der Schuld besteht nur dem Grade, nicht dem Grund nach. Der Taeter macht sich in beiden Faellen eines persönlich begangenen Unrechts schuldig, und er wird mit Recht als Taeter bestraft. Die Anwendung des Voelkerrechtes auf Einzelpersonen ist nichts Neues." (Protokoll Seite 10722)

Eine ganz ähnliche Ansicht befindet sich in dem Urteil in Sachen der Vereinigten Staaten gegen Ohlendorf (Fall Nr. 9), der vom Militärgericht Nr. II entschieden worden ist. Vergleiche das englische Protokoll der Urteilsverkündung, Seite 6714/6716.

Das IMG hat es nicht fuer erforderlich gehalten, in seinem Urteil die Frage zu entscheiden, ob der Begriff der "Unterwerfung" durch militaerische Eroberung rechtlich auch auf eine Unterwerfung Anwendung zu finden hat, die die Folge eines verbrecherischen Angriffskrieges ist. Der Begriff wird in dem Urteil daru fuer unanwendbar gehalten, wenn noch Truppen im Felde stehen und versuchen, das besetzte Gebiet seinen rechtmässigen Eigentumern wiederzuverschaffen. Die Haager Bestimmungen werden nicht dadurch unanwendbar, dass das deutsche Reich Teile der besetzten Gebiete "annektierte" oder sich "eingliederte", da damals entsprechend der Entscheidung des IMG, der wir uns insoweit anschliessen, noch Armeen im Felde standen und versuchten, die besetzten Gebiete ihren wirklichen Eigentumern wiederzuverschaffen. Wir machen uns diese Ansicht zu eigen. Daher erscheint es nicht erforderlich, bei der Untersuchung der behaupteten Spoliationsdelikte in Polen und Elsass-Lothringen diese von der Verteidigung geforderte Pruefung der ~~erwähnten~~ Unterscheidung vorzunehmen.

Zu den vorstehenden Erwagungen ueber das anzuwendende Gesetz kommt noch das Erfordernis, dass die Angeklagten nur dann der in Anklagepunkt 2.21 behaupteten Kriegsverbrechen oder einzelner dieser Verbrechen schuldig sind, wenn zulaessige Beweismittel mit einer an Sicherheit grenzenden Wahrscheinlichkeit die Feststellung zulassen, dass sie wesentlich an einer als Pluenderung oder Spoliation anzusehenden Handlung teilgenommen haben und zwar entweder (a) als Tater oder (b) Teilnehmer oder Anstifter oder Begunstiger bei der Begehung eines solchen Verbrechens, oder (c) ihre Zustimmung durch eine Handlung betaetigt haben, oder (d) in Verbindung mit Personen oder Unternehmen fuer die Ausfuehrung des Verbrechens gestanden haben, oder (e) Mitglieder einer Organisation oder Gruppe gewesen sind, die in Verbindung mit der Begehung eines solchen Verbrechens gestanden hat (Artikel II, Absatz 2 des Kontrollratgesetzes Nr. 10).

Eine der grundlegenden Einwendungen ist die von der Verteidigung vorgetragene Ansicht, dass ~~private Industrielle~~ für solche wirtschaftliche Massnahmen nicht strafrechtlich verantwortlich gemacht werden können, die von ihnen auf Anordnung oder mit Billigung ihrer Regierung in den besetzten Gebieten durchgeführt wurden. In der gleichen Richtung wie diese Einwendung bewegt sich auch der Vortrag, dass die zur Zeit der Begehung der hier zur Anklage stehenden Handlungen in Kraft befindlichen völkerrechtlichen Grundsätze keine klare Grenzlinie für die Zurechenbarkeit einer Handlung ziehen. Weiterhin wird gesagt, dass die Haager Bestimmungen durch den Begriff des totalen Krieges überholt seien, dass die buchstäbliche Anwendung von Kriegerecht und Kriegsgebrauch in der Kodifikation der Haager Bestimmungen nicht mehr möglich sei, dass die Erfordernisse des Wirtschaftskrieges die alten Regeln abändern und aufheben und in Übereinstimmung mit dem neuen Begriff des totalen Krieges als Rechtfertigung für die zur Last gelegten Handlungen angesehen werden müssen. Diese Auffassung ist nicht begründet. Die Billigung der verstohenden Ausführungen würde offenbar jede Bestimmung des Völkerrechts unwirksam machen und es in das Belieben eines jeden Staates stellen, als alleiniger Richter über die Anwendbarkeit des Völkerrechts zu entscheiden. Es geht über die Machtbefugnis aller Staaten hinaus, ihre Bürger zu Zuwiderhandlungen gegen das internationale Strafrecht zu ermächtigen. Bräuche ~~einzelner~~ der Rechtsquellen des Völkerrechts; Bräuche und Gewohnheiten können wechseln und von der Gemeinschaft der zivilisierten Völker so allgemein angenommen werden, dass der materielle Inhalt mancher Grundsätze des Völkerrechts sich ändert. Wir können aber nicht feststellen, dass die grundsätzliche Auffassung von der Achtung für fremdes Eigentum während einer Besetzung im Kriege sich soweit geändert hat, dass die weitverbreiteten Plünderungen und Spoliationsakte, die von dem nationalsozialistischen Deutschland während des zweiten Weltkrieges begangen worden sind, nunmehr als rechtmässig angesehen werden müssten. Es ist zugegeben, dass auf weiten Gebieten des Kriegerechts und Kriegsgebrauchs tiefgehende Unsicherheit besteht, aber diese Unsicherheit erstreckt sich nicht auf die für eine Besetzung während des Krieges geltenden Rechtsgrundsätze, wie sie in den Haager Bestimmungen niedergelegt sind.

Technische Fortschritte auf dem Gebiet der Bewaffnung und der Taktik, die in eigentlichen Kriegen zur Anwendung kommen, haben in gewisser Hinsicht einige der Vorschriften der Haager Bestimmungen, die sich mit der Kriegsführung im engeren Sinne und mit dem Begriff der völkerrechtlich zulässigen Kriegsführung beschäftigen, ausser Kraft gesetzt oder unanwendbar gemacht. Aber die erwähnte Rechtsunsicherheit bezieht sich in erster Linie auf die eigentlichen Operationen zu Wasser und zu Lande und die Art ihrer Durchführung. Wir können eine zur Unanwendbarkeit führende Rechtsunsicherheit nicht in diejenigen Vorschriften und Gebiete des Völkerrechts hineinlesen, die sich mit dem Verhalten des Besetzenden gegenüber der Bevölkerung des besetzten Gebietes in Kriegszeiten beschäftigen, moegen auch die Rechtsfragen der Auslegung und der Anwendbarkeit der Vorschriften auf den Tatbestand im Einzelfalle noch so schwierig sein. Dass tiefgehende Unsicherheit ueber den Rechtszustand in der Frage des Luftbeschadens, der Vergeltungsmassnahmen u.s.w. besteht, führt nicht zu der Schlussfolgerung, dass die von den Rechten des oeffentlichen und privaten Eigentums handelnden Vorschriften der Haager Bestimmungen ausser Acht gelassen werden duerfen. Einer der massgebenden Völkerrechtswissenschaftler hat ausgeführt:

"Es ist weiterhin nicht zutreffend, dass die Schwierigkeiten, die sich aus einer moeglichen Unsicherheit ueber das bestehende Recht ergeben, eine unmittelbare Wirkung auf diejenigen Verletzungen der Regeln fuer die Kriegsführung haben, die den Anlass fuer das fast allgemeine Verlangen nach Bestrafung der Kriegsverbrechen gegeben haben. Tatsachen, wegen denen die Strafverfolgung von Einzelpersonen als Kriegsverbrecher unangenehm erscheinen mag, weil die in Betracht kommenden Vorschriften in ihrer Auslegung zweifelhaft erscheinen, stehen meist in Zusammenhang mit den eigentlichen Kriegsoperationen zu Lande, zu Wasser und in der Luft. Keine solche immerhin beachtliche Unsicherheit besteht in allgemeinen in Bezug auf Missetaten, die im Verlaufe einer militaerischen Besetzung feindlichen Gebiete begangen worden sind. Hier gewahrt die uneingeschraenkte Machtbefugnis eines rucksichtslosen Eindringlings die Moeglichkeit zur Beghung von Verbrechen, deren Schaulichkeit unmoeglich durch einen Hinweis auf militaerische Notwendigkeiten, auf Rechtsunsicherheit oder auf die Durchfuhrung von Vergeltungsmassnahmen gemildert werden kann." (Lauterpacht, The Law of Nations and the Punishment of War Crimes, 1945 British Year Book of International Law.)

Nach unserer Ansicht sind die Vorschriften der Haager Konvention bestirmt und klar genug; die von uns erörterten Vorschriften sind in vorliegenden Fall anwendbar; sie stellen ein Verbotsgesetz dar, das die Grenzen festsetzt, die d Besetzende nicht ueberschreiten darf.
Die allgemeinen Tatsachen:

In dem Urteil des Internationalen Militaergerichts ist zweifelsfrei festgestellt, dass das Reich in Euwiderhandlung gegen die Vorschriften der Haager Bestimmungen eine allgemeine Politik zur Auspluenderung des oeffentlichen sowohl wie des privaten Eigentums der besetzten Gebiete eingeschlagen und durchgefuehrt hat. Das IMG hat festgestellt, dass oeffentliches und privates Eigentum systematisch gepluendert worden ist. Es hat festgestellt, dass die von Deutschland besetzten Gebiete "fuer den deutschen Kriegseinsatz in der unbarmherzigsten Weise ausgebeutet worden sind, ohne Ruecksichtnahme auf die oertliche Wirtschaft und in Verfolg vorbedachter Planung und Politik". Dieses Veruehen ist gemass Artikel 6 (b) des Statuts als strafbar angesehen worden, und diese Vorschrift entspricht, wie bereits bemerkt, dem Artikel II, 1, (b) des Kontrollratsgesetzes No. 10.

Ueber die Methoden hat das IMG folgendes ausgefuehrt:

"Die zur voelligen Ausbeutung der Wirtschaftsquellen der besetzten Gebiete benutzten Methoden waren bei jeden einzelnen Land verschieden. In einigen der besetzten Laender im Osten und Westen wurde die Ausbeutung in Rahmen der bestehenden Wirtschaftsordnung durchgefuehrt. Die oertlichen Industri wurden unter Aufsicht gestellt, und die Verteilung der Kriegsmaterialien wurde aufs schaerfste kontrolliert. Die fuer den deutschen Kriegseinsatz als wertvoll betrachteten Industrien wurden gezwungen, weiterzuarbeiten, die meisten der uebrigen wurden ganz stillgelegt. Rohstoffe und Fertigerzeugnisse wurden gleichermassen fuer die Beduerfnisse der deutschen Industrie beschlagnahmt. Schon am 19. Oktober 1939 hatte der Angeklagte GOERING eine Weisung ausgegeben, die genaue Richtlinien fuer die Verwaltung der besetzten Gebiete enthielt."

Die Weisung Goerings, die wir hier nicht zu zitieren brauchen, ist dem IMG ^{nach} zufolge ausgefuehrt worden, sodass die Hilfsquellen in einer ausser jedem Verhaeltnis zu



der Wirtschaftskraft der besetzten Länder/in Anspruch genommen wurden, was Hungersnot, Geldentwertung und einen regen Schwarzhandel zur Folge hatte. Das IIG hat weiterhin ausgeführt:

"In vielen der besetzten Länder in Osten und Westen hielten die Behörden den Anschein aufrecht, als ob sie für alles beschlagnahmte Gut bezahlten. Dieser scheinbar aufrecht erhaltene Vorwand einer Zahlung verbarg nur die Tatsache, dass die aus diesen besetzten Ländern nach Deutschland geschickten Güter von den besetzten Ländern selbst bezahlt wurden, und zwar entweder durch die Aufrechnung mit unbemessenen Besatzungskosten, oder aber durch Zwangsanleihen als Gegenleistung für einen Kreditsaldo, eines sogenannten "Clearing-Konto", welches nur der Illusion nach ein Konto war.

In Bezug auf diejenigen Beschuldigungen in der Anklageschrift, die sich auf Handlungen der I.G. in Polen, Norwegen, Elsass-Lothringen und Frankreich beziehen, können wir zu dem Ergebnis, dass das Beweismaterial mit einer an Sicherheit grenzenden Wahrscheinlichkeit ergeben hat, dass Eigentumsdelikte im Sinne des Kontrollratsgesetzes Nr. 10 von der I.G. begangen worden sind, und dass diese Delikte mit der oben beschriebenen deutschen Politik für die besetzten Länder in Zusammenhang gestanden und einen untrennbaren Teil dieser Politik gebildet haben. In einigen Fällen hat die I.G. nach einer von Reich vorgeschriebenen Beschlagnahme Schritte unternommen, um ein dauerndes Recht an den beschlagnahmten Vermögenswerten zu erwerben. In anderen Fällen, in denen "Verhandlungen" mit den Privateigentümern bestanden, hat die I.G. es unternommen, erhebliche oder beherrschenden Einfluss sichermachende Anteile an Vermögenswerten gegen den Willen der Eigentümer für die Dauer zu erwerben. Um diese Massnahmen durchzuführen, hat sich die I.G. in Gebiete beggeben, die von der Wehrmacht überrannt und besetzt worden waren oder unter der Affektiv-Kontrolle der Wehrmacht standen. Die Handlungsweise der I.G. und ihrer Vertreter kann unter diesen Umständen nicht anders angesehen werden als die von Offizieren, Soldaten oder Beamten des deutschen Reiches verübten Plünderungen und Bereubungen. In diesen auf die Beschlagnahme durch das Reich folgenden Fällen von Vermögenserwerb zeigt der Ablauf der Massnahmen der I.G. ganz deutlich einen wohlausgearbeiteten Plan. In den meisten Fällen ist die Initiative von der I.G. ausgegangen. In den Fällen, in denen die I.G. unmittelbar mit den privaten Eigentümern verhandelte hat,

hat eine immerwährende Drohung mit einer gewaltsamen Beschlagnahme des Vermögens durch das Reich oder mit ähnlichen Massnahmen bestanden, z.B. die Drohung mit der Verenthaltung von Lizenzen oder Rohmaterialien oder mit einer harten, in einzelnen aber nicht genau geschilderten Behandlung bei den Friedensverhandlungen, oder es sind andere wirksame Mittel angewandt worden, um die Eigentümer den Willen der I.G. gefügig zu machen. Die Macht der militärischen Besetzung stellte bei diesen Verträgen eine immer vorhandene Drohung dar und war zweifellos ein wichtiger, wenn nicht sogar der entscheidende Umstand. Das Ergebnis war die Bereicherung der I.G. und der Aufbau ihres chemischen Gross-Reichs mit Hilfe der militärischen Besetzung auf Kosten der früheren Eigentümer. Diese Handlungen der I.G. stellen Verstösse gegen die Haager Bestimmungen dar. Sie sind unter Verletzung der durch Kriegerecht und Kriegsgebrauch geschützten Rechte des Privateigentums vorgenommen worden; soweit es sich um öffentliches Eigentum handelt, verstösst dauernder Erwerb gegen die Vorschrift der Haager Landkriegsordnung, die die Besatzungsmacht auf den blossen Gebrauch an Grundbesitz beschränkt. Die Form der Verträge war wechselnd und kompliziert; die Transaktionen sind in Gesellschaftsverträge eingebaut worden, die sorgfältig darauf berechnet waren, den falschen Anschein der Rechtmässigkeit zu erwecken. Aber das Ziel: Raub, Plünderung und Spoliation, bleibt erkennbar, und ueber das tatsächliche Ergebnis kann kein Zweifel bestehen.

Die Verteidigung hat zur Rechtfertigung aller Einzelfälle versichert, die I.G. habe mit dem Erwerb eines massgebenden Einflusses auf Werke, Fabriken und andere Vermögenswerte in den besetzten Gebieten das Ziel verfolgt und erreicht, zur Aufrechterhaltung des Wirtschaftslebens dieser Gebiete beizutragen und auf diese Weise den mit der Haager Landkriegsordnung verfolgten Zweck zu erfüllen. Hierzu ist ausgeführt worden, dass das Verhalten der I.G. nicht in Widerspruch gestanden habe mit der Verpflichtung der Besatzungsmacht, in den besetzten Gebieten ein ordnungsmässiges Wirtschaftsleben wiederherzustellen. Wir koennen die Richtigkeit dieser Verteidigung nicht anerkennen. Die Tatsachen zeigen, dass die Erwerbshandlungen in erster Linie nicht den Zweck hatten, das örtliche Wirtschaftsleben aufrechtzuerhalten oder wiederherzustellen, sondern

überwiegend dazu bestimmt waren, die I.G. im Rahmen eines allgemeinen Plans zur Beherrschung der betroffenen Industrien zu bereichern, und zwar zur Verwirklichung des von der I.G. erhobenen "Führungsanspruchs". Wenn die Betriebsführung in einer Weise nebernötigen worden wäre, die auf eine nur vorübergehende Kontrolle oder auf einen Betrieb nur während der Dauer der Feindseligkeiten hindeutete, dann könnte dem Vorbringen der Verteidigung einiges Gewicht beigegeben werden. Die Beweisaufnahme hat aber ergeben, dass der von der I.G. gegen den Willen der Eigentümer durchgeführte Interessenerwerb für die Dauer geplant war. Die Beweisaufnahme hat ferner ergeben, dass die Mitwirkung der Eigentümer unfreiwillig erfolgt ^{ist} und dass die Übertragung für die Bedürfnisse des deutschen Besatzungsheeres nicht erforderlich war. Das in einem für die Dauer bestimmten Erwerb von V erpögenwerten bestehenden Verhalten der I.G. stellt eine Verletzung der Haager Bestimmungen dar; demgemäß ist jeder, der wesentlich an einem solchen Akt der Plünderung oder Spoliation in einer Weise teilgenommen hat, die unter ^{die} Aufschrift in Artikel II, Absatz 2 des Kontrollratgesetzes Nr. 10 fällt, strafrechtlich verantwortlich.

In folgenden geben wir kurz die Schlussfolgerungen wieder, zu denen wir in den Hauptfragen der Einzelfälle von Spoliation auf Grund des Beweisergebnisses gekommen sind.

A. Spoliation von öffentlichen und privaten Eigentum in Polen:

Nach unserer Ansicht hat die Beweisaufnahme mit einer an Sicherheit grenzenden Wahrscheinlichkeit ergeben, dass Akte von Spoliation und Plünderung, die Eigentumsdelikte im Sinne des Kontrollratgesetzes Nr. 10 darstellen, von der I.G. an drei Vermögensobjekten in Polen begangen worden sind.

Am 7. September 1939, nach der Invasion von Polen, telegraphierte der Angeklagte von SCHMITZER an KRUTER, ein Mitglied des I.G. Direktoriums in Berlin, und bat ihn, dem Reichswirtschaftsministerium einen Bericht zu geben über die Eigentumsverhältnisse und andere Tatsachen in Bezug auf vier wichtige polnische Fabrikbetriebe, deren Einnahme durch die Deutschen für die nächsten Tage erwartet wurde.

Die in Frage kommenden Fabrikanlagen waren die der Przemysł Chemiczny Boruta, der S.A. Solorz (Boruta), der Chemiczna Fabryka Wola Krzystoporska (Wola), und der Zakłady Chemiczne Innicy (Innica). Boruta war das Eigentum des polnischen Staates und wurde vom Staat betrieben; Wola gehörte einer jüdischen Familie namens Szpilfogel, und Innica gehörte nach aussen einer französischen Gruppe, aber in Wirklichkeit hatte die I.G. Chemie Basel eine geheime 50%ige Beteiligung. Tatsächlich kontrollierte die I.G. die eben erwähnte Hälfte auf Grund ihrer Verbindungen mit dem im Register eintragenen Besitzer und eines ihr von der I.G. Chemie eingeräumten Verkaufsrechts. Die Beteiligung der I.G. war zur Zeit der Gründung der Innica auf diese Weise getarnt worden, weil Polen Beschränkungen fuer deutsche Kapitalanlagen eingeführt hatte. Die Tatsache, dass die Hälfte des Unternehmens der I.G. gehörte, bedeutete, dass die I.G. das Recht hatte, ihre Interessen zu schützen, gab ihr aber nicht die geringste Berechtigung, Teile der Innica-Anlagen abzuschleusen.

Diese drei Betriebe, zusammen mit einem vierten Betrieb Fabjanica, (der Schweizer Interessenten gehörte und hier nicht in Betracht kommt) produzierten mehr als die Hälfte des polnischen Farbstoffbedarfs. Von SCHÜTZLER wird darauf hin, dass die Boruta und Wola zu 100% polnischen Interessenten gehörten und Mitglieder des Farbstoff-Syndikats seien. Ferner lenkte er die Aufmerksamkeit auf die erheblichen und wertvollen Vorräte an Vorprodukten, Zwischenprodukten und Endprodukten, die sich in den Betrieben befanden, und sagte:

"Ganz zu der Frage des Weiterbetriebs der Fabriken in gegenseitigen Moment Stellung nehmen zu wollen, mochten wir es fuer unbedingt erforderlich halten, dass die Verwertung der vorgesagten Vorräte im Interesse der deutschen Volkswirtschaft durch Sachverständige erfolgt. Nur die I.G. ist in der Lage, diese Sachverständigen zu stellen."

Fuer diese Aufgabe wurde ein I.G. Vertreter als die geeignete Persönlichkeit vorgeschlagen.

Kurz darnach, am 14. September 1939, richteten von SCHÜTZLER und KRUGER einen Brief an das Wirtschaftsministerium, in dem sie eine Konferenz, die an diesem Tage stattgefunden hatte, bestätigten. In dem Brief wird vorgeschlagen, die I.G. zum Tausender fuer die Bewirtschaftung von Boruta,

Wola und Winnica einzusetzen, mit dem Recht, den Betrieb fortzusetzen oder die Fabriken zu schliessen, sowie ihre Vorräte, Zwischen- und Endprodukte zu verwerten. Zwei Angestellte der I.G. wurden als Geschäftsführer für das Unternehmen vorgeschlagen. Von SCHNITZLER empfahl nachdrücklich, dass

Wola dauernd geschlossen und Boruta als besonders wertvoll für die deutsche

Kriegswirtschaft erklärt werden solle, da die meisten deutschen Farbstoffbetriebe in der Westzone laegen, sodass Boruta einen "doppelten Wert" habe.

In der Antwort auf von SCHNITZLERs Brief teilte das Reichswirtschaftsministerium mit, dass es beschlossen habe, den Vorschlag der I.G. zu folgen und

Boruta, Wola und Winnica, die in dem fruher polnischen, jetzt von deutschen Truppen besetzten Gebiet laegen, unter kommissarische Verwaltung zu stellen.

Das Reichswirtschaftsministerium hatte anscheinend durchaus zutreffende Vorstellungen darueber, dass die vorgeschlagene kommissarische Verwaltung nur

ein Ausdruck der Erwerbsabsichten der I.G. war. Das Ministerium stimmte der

Ernennung der von der I.G. empfohlenen Angestellten zu kommissarischen Verwaltern zu, stellte aber fest, dass eine solche Massnahme der I.G. keinerlei

Vorrechte fuer einen etwaigen Erwerb gaebe. Die Beweisurkunde zeigt, dass

die Massnahme der Reichsbehoerden gegen die genannten Werke unmittelbar von der I.G. veranlasst worden ist. Die von der I.G. vorgeschlagenen Maenner

machten sich ans Werk und nahmen in den ersten Tagen des Oktobers 1939 die

Betriebe in Besitz. Der naechste Schritt war, dass SCHNITZLER den Reichs-

behoerden in einem Brief vom 10. November 1939 vorschlug, die Boruta, die

am Rande des Bankrotts stehe und keine Mittel zur Beschaffung der notwen-

digen Betriebseinrichtungen habe, fuer 20 Jahre an eine Tochtergesellschaft

der I.G. zu verpachten, die fuer diesen Zweck zu gruenden sei. Wola solle

geschlossen und ihre Betriebseinrichtung in die Boruta Fabriken ueberfuehrt

werden. Von SCHNITZLER erwachte, "dass eine gewisse Dauerhaftigkeit der

Zustaende" vonnöten sei und fuegte hinzu: "Wenn das Reich ein Interesse daran

haben sollte, den Betrieb waehrend der 20 jaehrigen Pachtdauer wieder in ein

Privatunternehmen umzuwandeln, so sollte der I.G. das Vorkaufsrecht eingeräumt

werden". Dieser Brief stellt klar, dass die I.G. von Anfang an die Absicht

und das Interesse hatte, den Betrieb nicht nur zeitweilig zu bewirtschaften,

sondern fuer immer zu erwerben.

Es wurde ferner empfohlen, bestimmte Betriebseinrichtungen der Minica auszubauen und in die Boruta-Fabriken zu bringen. Ende November 1939 unterbreitete SCHMITZER erneut die Vorschläge der I.G. schriftlich an Goering in seiner Eigenschaft als Bevollmächtigter fuer den Vierjahresplan und erbat die Zustimmung der Haupttreuhandstelle Ost fuer die bisherigen Anregungen der I.G. Der vorgeschlagene Pachtvertrag ist nie zustandgekommen, und im Juni 1940 wurde beschlossen, der I.G. die Genehmigung zum kauflichen Erwerb anstelle der pachtweisen Uebernahme zu erteilen. Es traten E. Carrenton fuer den Erwerb der Werke auf, und die Verhandlungen ueber den Preis zogen sich in die Laenge. Bei einer Sitzung am 4. Dezember 1940 wiesen die I.G.-Vertreter, die in Einklang mit SCHMITZER Anweisungen handelten, darauf hin, dass die I.G. den Betrieb im Interesse der deutschen Farbstoffproduktion erwerben solle, dass die Fabrik ihre Fortigung fortsetzen müsse, und dass sie "aufgrund des von allen amtlichen Stellen anerkannten Fachungsanspruchs in die Sphäre der I.G.-Farbstoffherzeugung eingeschaltet werden müsse", was nur durch kaufliche Uebernahme sichergestellt werden konnte. Im April 1941 wurde SCHMITZER mitgeteilt, dass der Reichsfuehrer SS beschlossen habe, die Boruta der I.G. zuzuweisen. Am 27. November 1941 wurde der endgueltige Kaufvertrag abgeschlossen und von SCHMITZER unterzeichnet, durch den die I.G. Grund und Boden, Gebäude, Maschinen, Einrichtungen, Werkzeuge, Mobel und Zubehoer erwarb. Es ist bemerkenswert, dass der Kauf auf den 1. Oktober 1939 zuerueckdatiert wurde, d.h. ungefaehr auf das Datum der ursprünglichen Besitzergreifung und Bewirtschaftung durch die Abgesandten der I.G.

Der Erwerb der französischen Beteiligung, die aus 1,006 Minica-Aktien bestand, wurde durch ein Abkommen mit den Franzosen durchgefuehrt, das zeitlich mit den Francolor Verhandlungen zusammenfiel, auf die wir spaeter zu sprechen kommen werden. Dass die französischen Interessenten gegen ihren Willen und ohne ihre Zustimmung zur Aufgabe ihres Besitztums gezwungen worden sind, kann aufgrund des dazwischenliegenden Beweismaterials, das uns ueber die Vorgaenge bei der Uebertagung der Minica-Aktien an die I.G. vorliegt, nicht festgestellt werden.

Das Beweismaterial, auf Grund dessen die Übertragung der Aktien von den französischen Gerichtshof für nichtig erklärt wurde, ist uns nicht angeboten worden. Wir wurden uns in blossen Vermutungen ergehen, wenn wir annehmen, dass die Franzosen den Erwerb durch die I.G. nicht zugestimmt haben, besonders in Anbetracht der Tatsache, dass die I.G. ja praktisch schon die Hälfte des gesamten Winnica-Kapitals besass. Immerhin hat die Beweisaufnahme klar ergeben, dass auf Grund der Empfehlung der I.G. Betriebseinrichtungen sowohl der W.L. als auch der Winnica abmontiert und in I.G. Betriebe in Deutschland abtransportiert worden sind, eine Handlung, die eine Mitwirkung an Aneignungstaten in Polen darstellt.

Die vorstehenden Ausführungen zeigen auch, dass der dauernde Erwerb von Produktionsbetrieben oder Beteiligungen an solchen Betrieben und die Abrüstung von Betriebseinrichtungen durch die I.G. eine Ausbeutung der unter kriegerischer Besetzung stehenden Gebiete darstellt und somit eine Verletzung der Haager Landkriegsordnung.

B. Die Beschuldigung der Spoliation in Norwegen:

Wir stellen fest, dass Eigentumsdelikte im Sinne des Kontrollratsgesetzes Nr. 10 von der I.U. begangen worden sind durch den für die D-Ver bestimmten und gegen den Willen und ohne die freie Zustimmung der Besitzer vorgenommenen Erwerb von Vermögenswerten in besetzten Norwegen. Diese Feststellung bezieht sich auf den Nordisk-Lettmetall-Plan für den Ausbau der Leichtmetall-Erzeugung in Norwegen, das unter anderem dazu führte, dass die französischen Aktionäre ihrer Aktienmajorität in dieser Gesellschaft zu Gunsten einer deutschen Gruppe beraubt wurden, zu der auch die I.G. gehörte. Der Nordisk-Lettmetall Plan ist zwar von den Reichsbehörden veranlasst worden, aber es ist klar erwiesen, dass die I.G. sich an dem Plan beteiligt hat und dass ihre Vertreter gewusst haben, dass die Macht der nationalsozialistischen Regierung, unter deren Besetzung Norwegen damals stand, der ausschlaggebende Grund war, der die französischen Besitzer der Norsk-Hydro zur Teilnahme an dem Plan gezwungen hatte.

Die Tatsachen sind kurz die folgenden: Nach dem Angriff auf Norwegen und der militärischen Besetzung dieses Landes entschied HITLER, dass die norwegische Aluminium Kapazität für den Bedarf der Luftwaffe reserviert werden soll.

Goering gab die entsprechenden Befehle, denen zufolge Dr. KOPPELBERG mit besonderen Befugnissen ausgestattet wurde, der in seiner Eigenschaft als Bevollmächtigter fuer Aluminium die Aufgabe hatte, die Leichtmetall-Produktion in Norwegen auszubauen. Der Plan war ehrgeizig; er sah einen Ausbau der Betriebe und Kapitaleinsparungen im allergrössten Stil vor, und sein Endziel war die Verdreifachung der norwegischen Leichtmetall-Produktion. Die Norsk-Hydro Elektrisk Kvaelfabrikationselskab (kurz: Norsk-Hydro) war eine der wichtigsten norwegischen Industriekonzerne fuer die Fertigung von Chemikalien und verwandter Artikel. Ihre Anlagen wurden fuer den Plan benoetigt, und eine Anzahl ihrer Betriebe sollte ausgebaut und der Grundbesitz uebertragen werden, damit die Ziele der deutschen Regierung erreicht werden konnten. Das Beweismaterial ergibt klar, dass das unmittelbare Ziel der deutschen Regierung darin bestand hat, die Hilfsquellen Norwegens einschliesslich seiner Maschinerie und Rohstoffe auszunutzen fuer den stetig wachsenden Bedarf der deutschen Kriegsmaschine, besonders an Militaer-Flugzeugen. Der Beschluss, diesen Plan ins Werk zu setzen, ist von den hoechsten Reichsbehoeerden gefasst worden, und es war klar, dass die ganze militaerische Besatzungsmacht fuer seine Durchfuehrung zur Verfuegung stehen wurde, da die Anlagen der Norsk-Hydro in einem Gebiet lagen, das unter militaerischer Besatzung stand.

Die I.G. hat sich sofort an dieser grossangelegten Planungsarbeit beteiligt und um eine moeglichst grosse Kapitalbeteiligung gekaempft. Es ist moeglich, dass sie sich mit den von Reich als Partner vorgeschlagenen Firmen nur ungern einverstanden erklart hat, aber es kann nicht bezweifelt werden, dass sie aus freien Stuecken an dem Plan mitgewirkt hat.

Begesehen von dem unmittelbaren Zweck, Leichtmetalle fuer die Luftwaffe zu erhalten, hatte die I.G. das auf lange Sicht ausgerichtete Ziel, die norwegische Leichtmetall-Industrie unter die dauernde Beherrschung Deutschlands zu bringen; sie dachte dabei an eine Zeit, in der der Frieden durch einen nationalsozialistischen Sieg erknaempft sein wurde.

Die Majoritaet in der Norsk-Hydro, die sich auf ungefaehr 64% des Aktienkapitals belief, gehoerte einer Gruppe

französischer Aktionäre, die durch die Banque de Paris et des Pays Bas (hier die Banque de Paris genannt) vertreten wurden. Der Plan, der schliesslich durch das Reichsluftfahrtministerium nach zahlreichen Konferenzen ausgearbeitet wurde, an denen die I.G. Vertreter teilnahmen, führte zu der Schaffung einer neuen Gesellschaft, der Nordisk-Lettmetall, an der die Reichsregierung und die von ihr benannten Personen die I.G. und die Norsk-Hydro mit je einem Drittel beteiligt waren. Die französischen Besitzer der Norsk-Hydro haben sich nicht freiwillig an dem Nordisk-Lettmetall-Plan beteiligt, aber die Betriebe dieser Gesellschaft befanden sich im besetzten Norwegen, und das Beweismaterial, obgleich es in diesem Punkt Widersprüche aufweist, überzeugt uns, dass der von der nationalsozialistischen Regierung ausgeübte Druck und die Furcht vor Zwangsmaßnahmen, durch die ihre norwegischen Interessen betroffen werden konnten, die ausschlaggebenden Beweggründe waren. Auf diese Weise wurde die Norsk-Hydro zur Teilnahme an dem Plan gezwungen, und ihre Anlagen wurden späterhin durch alliierte Bombenangriffe schwer beschädigt. Die Norsk-Hydro erlitt infolgedessen das ganze Projekt erhebliche finanzielle Verluste. Nach ihrem Eintritt in das Projekt war die I.G. eine der hauptsächlichen Mitarbeiter bei seiner Durchführung. Die Nordisk-Lettmetall machte für das Projekt von den Betrieben der Norsk-Hydro Gebrauch, und Teile des wertvollen Grundbesitzes dieser Gesellschaft sind für den Betriebsausbau benutzt worden.

I. Rahmen des Gesamtplans haben die Reichsbehörden, wie durch die Beweisaufnahme erwiesen ist, vorwiegend darauf hingearbeitet, das Projekt in einer solchen Weise durchzuführen, dass die französischen Aktionäre der Norsk-Hydro ihrer Majorität in dieser Gesellschaft beraubt wurden. Die I.G. beteiligte sich ebenfalls an diesem Teil des Plans. Um den Verlangen der nationalsozialistischen Regierung Rechnung zu tragen, die eine Beteiligung der Norsk-Hydro an dem Nordisk-Lettmetall Projekt wünschte, musste das Aktienkapital der Norsk-Hydro um 50.000.000 Millionen Norwegische Kronen erhöht werden. Die französischen Aktionäre waren in der Versammlung vom 30. Juni 1941 nicht vertreten, in der die Erhöhung des Aktienkapitals, ebenso wie die Beteiligung an der Nordisk-Lettmetall beschlossen wurde. Die Besatzungsmächte hatten ihnen nicht die Erlaubnis gegeben, der Sitzung beizuwohnen.

Die Banque de Paris hatte bei der Durchführung der Erhöhung des Aktienkapitals auf Grund des in der Sitzung gefassten Beschlusses keine Möglichkeit, die Bezugsrechte der französischen Aktionäre wirksam zu schützen, weil Frankreich damals unter militärischer Besetzung stand und die Genehmigung für den Export der Devisen, die für die Beteiligung an dem erhöhten Stammkapital benötigt wurden, von der nationalsozialistischen Regierung nicht erlangt werden konnte. Unter dem Druck dieser Umstände mussten die Vertreter der französischen Majorität in der Norsk-Hydro es zulassen, dass die deutschen Interessenten, unter denen sich die I.G. und die anderen von Reich vorgeschlagenen Firmen befanden, ihre Bezugsrechte für die neuen Norsk-Hydro Aktien erwarben. Auf diese Weise wurde die französische Majorität in eine Minoritätsbeteiligung umgewandelt. Wir haben das sich widersprechende Beweismaterial und die Schutzbehauptungen sorgsam erwogen, die in dieser Angelegenheit vorgebracht worden sind. Wir sind zu dem Schluss gekommen, dass die französischen Aktionäre ihrer Majorität in der Norsk-Hydro durch Druck beraubt worden sind, ein Druck, der sich herleitete aus der ewigen Angst, dass die in besetzten Norwegen befindlichen Sachwerte der Norsk-Hydro beschlagnahmt werden könnten, und wir sind der Ansicht, dass ihre Beteiligung an der Nordisk-Lotterietall keine freiwillige war. Die Handlung stellt eine Verletzung der Haager Landkriegsordnung dar, und diejenigen, die wesentlich an der ganzen Transaktion beteiligt waren, müssen unter Anklagepunkt VIII für schuldig befunden werden.

C. Plünderung und Ausraubung in Frankreich:

(1) Elsass-Lothringen. Ziffer III der Anklageschrift lautet: "Die deutsche Regierung annektierte Elsass-Lothringen und beschlagnahmte die dort gelegenen Fabriken, die französischen Staatsangehörigen gehörten. Zu den Fabriken, die in diesem Gebiete lagen, gehörte die Farbstoff-Fabrik Kuhlmanns Société des Matières Colorantes et Produits Chimiques, Mulhouse, sowie die Sauerstoffanlagen, Oxygène Liquide, Strasbourg-Schiltigheim (Elsass) und die Fabrik der Gase Française in Diedenhofen (Lothringen). Ohne den französischen Inhabern eine Zahlung zu leisten oder ihre Zustimmung einzuholen, erwarb die I.G. diese Fabriken von der deutschen Regierung."

Das Vorgehen der I.G. im besetzten Elsass-Lothringen erfolgte nach demselben Muster wie in Polen. Der Mulhausemer Betrieb der im Elsass ansässigen Société des Produits Chimiques et Matières Colorantes de Mulhouse wurde am 6. Mai 1941 von Chef der deutschen Zivilverwaltung an die I.G. verpachtet. Der Betrieb war auf Grund einer von Reich erteilten generellen Befugnis zur Beschlagnahme französischen Eigentums in Besitz genommen worden. Die I.G. hatte sogar schon von der Fabrik Besitz genommen, bevor der sie hierzu berechtigende Pachtvertrag abgeschlossen war; die I.G. hatte hierbei die Absicht, die Produktion wiederaufzunehmen. Die Bedingungen des Pachtvertrages zeigten klar, dass es sich dabei nicht um eine zeitweilige Inbetriebnahme im Interesse der Wirtschaft des Landes gehandelt hat, dass vielmehr die Pacht nur ein Zwischenstadium war, das zum dauernden Erwerb durch die I.G. hinführen sollte. Der Pachtvertrag enthielt ausdrückliche Bestimmungen, nach denen der Verpächter, d.h. der Chef der Zivilverwaltung in Elsass in seiner Eigenschaft als Vertreter der nationalsozialistischen Regierung, die Verpflichtung übernahm, den Betrieb und seine Anlagen an die I.G. zu verkaufen, sobald die allgemeinen Bestimmungen und örtlichen Verordnungen einen solchen Schritt erlaubten. Im Anschluss an diese Bestimmung erliess die Regierung am 23. Juni 1943 eine formelle Beschlagnahme- und Entschlagnungsanordnung, durch die das Eigentum auf das Deutsche Reich übertragen wurde. Darauf folgte am 14. Juli 1943 der Verkauf an die I.G. Es ist unnötig, die flagrante Auserachtlassung der Eigentumsrechte zu erörtern, die sich aus diesen Tatsachen ergibt. Die Verletzung der Haager Landkriegsordnung ist klar und die Beteiligung der I.G. an dieser Verletzung ist in vollem Masse bewiesen.

Im Falle der Sauerstoff- und Äthylenbetriebe, die in den Akten als "Strassbourg-Schiltigheim" bezeichnet sind, ist die I.G. in derselben Weise vorgegangen. Nachdem sie zuerst einen Pachtvertrag abgeschlossen hatte, unternahm sie dann Schritte zum dauernden Erwerb der Betriebe und erwarb sie schliesslich auch im Anschluss an die Entscheidung durch die Regierung, fuer die es nach dem Völkerrecht keine gesetzliche Rechtfertigung gab. Bei keiner dieser Transaktionen wurden die Rechte der Besitzer beachtet. Im Falle des Betriebes Diederhofen in Lothringen wurde die Fabrik zwar an die I.G. verpachtet, aber niemals zu dauerndem Eigentum erworben.

Die I.G. machte ihre Ansprüche auf den Erwerb bei den Besatzungsbehörden geltend, aber der Chef der deutschen Zivilverwaltung weigerte sich, eine den künftigen Erwerb regelnde Bestimmung in den Pachtvertrag aufzunehmen. Aus Gründen, die man aus dem Beweismaterial nicht klar sehen kann, hatte die I.G. in diesem Fall Schwierigkeiten. Das Beweismaterial zeigt, dass der Betrieb schon vor der Übernahme durch die I.G. verlassen worden war. Dieser Umstand im Zusammenhang mit der Haltung der deutschen Behörden und der kurzen Dauer des Pachtvertrages führt zu dem Schluss, dass trotz der von der I.G. bekundeten Absicht, die Fabrik endgültig zu erwerben, die Beweisaufnahme nicht einwandfrei ergeben hat, dass der Besitzer seines Eigentums für alle Zeiten beraubt, oder dass ihm die Nutzung an dieser Fabrik gegen seinen Willen vorenthalten worden ist. Wir sind der Auffassung, dass das Beweismaterial zur Feststellung einer strafbaren Handlung im Falle der Diederhoffer Werke nicht ausreicht.

(2) Das Francolor Abkommen. Die Ziffern 103 bis 110 der Anklageschrift beschuldigen die Angeklagten der Ausplünderung und Ausraubung der wichtigsten Farbstoffindustrien Frankreichs mittels des sogenannten Francolor-Abkommens. Die Beweisaufnahme hat die in diesem Teil der Anklageschrift enthaltenen Anklagen voll bestätigt. Unter völliger Ausserachtlassung der Rechte der Franzosen hat die I.G. mit Hilfe von Einschüchterungs- und Zwangsmassnahmen eine dauernde Majorität in einer neuen Gesellschaft "Francolor" erworben, die zu dem Zweck gegründet worden war, die Vermögenwerte der französischen Konzerne zu übernehmen. Die Vertreter der I.G. in diesem Fall waren die Angeklagten von SCHNITZLER, TER LEEUW und KUGLER. Die Tatsachen können kurz folgendermassen zusammengefasst werden: Vor dem Kriege gehörten die folgenden drei Farbstoff-Fabriken zu den bedeutendsten in Frankreich: Die Compagnie Nationale de Matières Colorantes et Manufactures de Produits Chimiques du Nord Réunies Etablissements Kuhlmann, Paris (im folgenden Kuhlmann genannt); die Société Anonyme des Matières Colorantes et Produits Chimiques de Saint Denis, Paris (im folgenden Saint Denis genannt); und die Compagnie Française de Produits Chimiques et Matières Colorantes de Saint-Clair-du-Rhône, Paris (im folgenden Saint-Clair-du-Rhône genannt).

Diese drei Firmen hatten mit der I.G. Syndikatsverträge abgeschlossen, darunter das sogenannte Deutsch-Französische Syndikat vom Jahre 1927, das sogenannte Drei-Partner-Abkommen oder Deutsch-Französisch-Schweizer Syndikat vom Jahre 1929 und das sogenannte Vier-Partner-Abkommen, an dem deutsche, französische, schweizer und englische Gruppen beteiligt waren, und das im Jahre 1932 zustandgekommen war. Durch diese Abkommen war die Grundlage für eine Zusammenarbeit der wichtigsten Farbstoff-Erzeuger auf dem europäischen Kontinent geschaffen worden. Aber bei dieser Planung für eine Neue Ordnung der Industrie hatte die I.G. beabsichtigt und auch empfohlen, dass die Industrie unter ihrer Führung völlig reorganisiert werden solle.

Sofort nach dem Waffenstillstand mit Frankreich im Jahre 1940 hatte die I.G. mit den Vertretern der Besatzungsbehörden und anderen Regierungsdienststellen Besprechungen, sie versorgte mit voller Absicht die Verhandlungen mit den Franzosen zu dem Zweck, sie solchen Verhandlungen geneigt zu machen. Mittlerweile benutzte die I.G. ihren Einfluss bei den deutschen Besatzungsbehörden dazu, die Vergabe von Lizenzen zu verhindern und den Zufluss von Rohmaterialien zu stoppen, die den französischen Fabriken die Möglichkeit gegeben hatte, ihre normale Vorkriegserzeugung zur Deckung des französischen Wirtschaftsbedarfs wiederaufzunehmen. Als die französischen Betriebe ihre Produktion nicht wiederaufnehmen konnten und ihre Lage bedenklich genug geworden war, sahen sie sich gezwungen, um die Einleitung von Verhandlungen zu bitten. Die I.G. erklärte ihre Bereitschaft hierzu. Am 21. November 1940 fand in Baden eine Konferenz statt, bei der Vertreter der I.G., der französischen Industrie und der französischen und ^{der} deutschen Regierung anwesend waren. Die Sitzung fand unter der offiziellen Ägide der Waffenstillstandskommission statt. Offensichtlich wussten die Franzosen, dass ihnen nicht anderes übrig blieb, als bei den sogenannten Verhandlungen die Hoffnungen über das zukünftige Geschick der französischen Farbstoffindustrie entgegenzunehmen, die völlig der Gnade oder Ungnade der deutschen Besatzungsmacht ausgeliefert war. Dies war die Führung in der Sitzung vom 21. November 1940. Die Angeklagten von SCHMITLER, TER LER und KUGLER waren als Hauptvertreter der I.G. anwesend.

Gleich beim Beginn der Konferenz wurde den französischen Industriellen offen mitgeteilt, dass die zwischen der I.G. und den französischen Produzenten geschlossenen Vorkriegsabkommen, die die Franzosen als Grundlage fuer die Verhandlungen benutzen wollten, in Anbetracht des Kriegsverlaufs als hinfällig anzusehen seien. Der historische Fuehrungsanspruch der I.G., den man mit angeblichen, im ersten Weltkrieg begangenen Ungerechtigkeiten zu rechtfertigen suchte, wurde als zusehender Grund angegeben. Die deutschen Vertreter eroffneten den Franzosen in hochmuetigen Worten, dass der Verlauf der Ereignisse des vergangenen Jahres die Dinge in voellig anderem Licht erscheinen lasse^{und} dass man sich der neuen Lage anpassen musse. Den französischen Vertretern wurde ein von SCHWITZER verfasstes Memorandum ueberreicht, in dem die I.G. eine massgebende Beteiligung in der französischen Farbstoff-Industrie verlangte. Die in dem Memorandum der I.G. aufgefuehrten deutschen Forderungen wurden von dem Botschafter HADSEN energisch unterstuetzt, der auf die schwere Gefahr hinwies, die die französische Farbstoffindustrie bedrohen wurde, falls ihre Zukunft der Regelung durch einen Friedensvertrag anstatt "Verhandlungen" ueberlassen wurde. Offensichtlich bedeutete diese Konferenz keineswegs die Zuhilfenahme von Verhandlungen im wahren Sinne des Wortes zwischen Parteien, die frei und ohne Zwang miteinander Vertraege abschliessen konnten. Sie war vielmehr der ideale Rahmen fuer die Verknuepfung des deutschen Ultimatums an die französische Farbstoffindustrie, die der Herrschaft der I.G. unterworfen werden sollte.

Die französische Industrie sah sich vor eine wenig beneidenswerte Alternative gestellt: Sie konnte einerseits den Weg der Zusammenarbeit und druebergreifung gehen in voller Erkenntnis der Zwangslage, in der sie sich infolge der von der I.G. gestellten Forderungen befand, oder sie konnte Widerstand leisten und damit Gefahr laufen, von den Besatzungsbehoerden oder Regierungskommissionen, die in Zukunft im Zusammenhang mit den Friedensvertragsverhandlungen moeglicherweise eingesetzt werden koennten, noch schlimmer behandelt zu werden. Die Franzosen fuerechteten, dass die deutsche Besatzung ihre Macht dazu gebrauchen werde,

die Betriebe entweder voellig zu uebernehmen, oder sie abzumontieren und nach Deutschland abzutransportieren nach dem Muster, das das Dritte Reich fuer die Durchfuehrung einer militaerischen Besetzung entworfen hatte. Trotz diesen gefuehrten Alternativen setzten die Franzosen den deutschen Forderungen energischen und unswoudoutigen Widerstand entgegen. Sie waren aber klug genug, die Verhandlungen nicht voellig abubrechen.

Am folgenden Tage, den 22. November 1940, fand eine zweite Konferenz zwischen den Vertretern der I.G. - darunter von SCHMITZLER, TER LEER, LAIBEL und KUGLER - und den Vertretern der franzoesischen Gruppe statt, bei der aber Regierungsvertreter nicht anwesend waren. Die Ansprueche der I.G. auf Majoritaetsbeteiligung und Einverleibung der franzoesischen Farbstoffindustrie wurden bei dieser Konferenz mit grossem Nachdruck vorgebracht. Die Franzosen setzten ihre Proteste fort. Sie weigerten sich, die Vorschlaege anzunehmen, ohne jedoch die Verhandlungen abubrechen. Sie erklaeerten, dass sie in Anbetracht der Lage die Angelegenheit der franzoesischen Regierung mit der Bitte um Rat und Hilfe unterbreiten wurden. Ihre Regierung gab ihnen den Rat, die Verhandlungen nicht abubrechen, da ein solcher Schritt ernste Folgen nach sich ziehen koennte. Eine Vertagung und Verzoegerung der Verhandlungen passte ausgezeichnet in den Plan der I.G., die franzoesische Gruppe zur Unterwerfung zu zwingen. Darauf wurde den Vertretern der I.G. am 20. Januar 1941 bei einer Sitzung in Paris ein franzoesischer Gegenvorschlag unterbreitet. In diesem Vorschlag hatten die Franzosen das neueste Angebot gemacht, zu dessen Erhoehung sie nicht gezwungen zu werden hofften. Sie schlugen vor, dass eine Verkaufsgemeinschaft gegrueendet werden solle, mit einer Minoritaetsbeteiligung der I.G., waehrend die Mehrheit der Aktien in franzoesischen Haenden verbleiben solle. Dieser Vorschlag wurde von der I.G. abgelehnt. Er vertrug sich nicht mit ihrem Fuehrungsanspruch. Im Verlauf der Verhandlungen wurde es immer klarer, dass diese Angelegenheit voellig im Einklang mit den von der I.G. gestellten Bedingungen geregelt werden wurde. Die I.G. forderte eine absolute Beherrschung der franzoesischen Farbstoffindustrie mittels einer 51%igen Beteiligung an dem Aktienkapital des neuen Konzerns Francolor,

der gegründet werden sollte, um alle Vermögenswerte der Kuhlmann, Saint-Glaur und Saint Denis zu übernehmen. Hoechst widerwillig erklärten sich die Franzosen grundsätzlich einverstanden mit der von deutscher Seite geforderten Zusammenlegung der französischen Farbstoffherzeugung in einer neuen Gesellschaft mit deutscher Beteiligung, aber sie protestierten immer weiter gegen die von der I.G. geforderten Majoritätsbeteiligung und hielten ihren Widerstand hiergegen aufrecht. Die Beweisaufnahme hat ergeben, dass sie in diesem Punkt sogar von französischen Regierungsbehörden unterstützt wurden. Aber die Lage der französischen Industrie war zu verzweifelt.

Schliesslich gab am 10. März 1941 die Vichy-Regierung ihre Zustimmung zu dem Plan der Gründung der französisch-deutschen Farbstoff-Gesellschaft, Francolor, in der es der I.G. gestattet sein sollte, eine beherrschende 51%ige Beteiligung zu erwerben. Diese Entscheidung der Vichy-Regierung wurde den französischen Vertretern von den Angeklagten ^{von} SCHNITZLER bei einer Zusammenkunft am gleichen Tage eröffnet. Nachdem bestätigt worden war, dass die von der französischen Regierung mit der Regelung der Wirtschaftsfragen betrauten Beamten den Standpunkt der I.G. unterstützten, sah sich die französische Industrie zum Nachgeben gezwungen. Die endgültige Einigung wurde erzielt bei einer darauffolgenden Konferenz vom 12. März 1941, bei der Vertreter der in Frage kommenden französischen und deutschen Firmen... und Vertreter der Militärregierung in besetzten Frankreich anwesend waren.

Das Francolor-Abkommen wurde am 18. November 1941 formell abgeschlossen. Für die I.G. unterzeichneten die Angeklagten von SCHNITZLER und TER MEER. Auf Grund dieses Abkommens erwarb die I.G. für alle Zeit eine Beteiligung mit beherrschendem Einfluss in der französischen Farbstoffindustrie und zahlte dafür mit I.G.-Aktien, die von den Franzosen nicht verkauft werden konnten, da sie gemäss den Bestimmungen des Abkommens eine Übertragung der Aktien nur unterzeichnet vornehmen durften. Am 3. November 1945 wurde auf Grund eines von einem französischen Gerichtshof erlassenen Beschlusses die Übertragung der Francolor-Aktien an die I.G. für nichtig erklärt.

Ogleich die Transaktion nach aussen hin in gesetlicher Form vorgenommen worden war, ist sie auf Grund der Interalliierten Erklrung vom 5. Januar 1943 und den zu ihrer Ausfuehrung erlassenen franzoesischen Verordnungen fuer nichtig erklrt worden.

Die Angeklagten haben geltend gemacht, dass das Francolor-Abkommen das Ergebnis freier Verhandlungen darstelle, und dass es fuer die franzoesischen Interessenten von praktischen Nutzen gewesen sei. Wie bereits eruert, liegen ueberwltigende Beweise dafuer vor, dass die Zustimmung der Franzosen zu dem Francolor-Abkommen nur unter Druck und Zwang erreicht worden ist. Da diese Zustimmung keine freiwillige war, ist es rechtlich ohne Bedeutung, dass das Abkommen auch Verpflichtungen fuer die I.G. enthalten haben mag, deren Erfuellung moeglicherweise zu dem Wiederaufbau der franzoesischen Industrien beigetragen hat. Auch die Angemessenheit des Entgelts, das fuer die von dem neuen Konzern uebernommenen franzoesischen Vorratswerte bezahlt wurde, bildet keine durchgreifende Verteidigung. Der wesentliche Inhalt des Delikts besteht in der Ausnutzung der sich aus der militrischen Besetzung Frankreichs ergebenden Macht zum Erwerb von Privateigentum unter voelliger Aussserachtlassung der Rechte und Wunsche der Besitzer. Wir sind der Auffassung, dass bei der Francolor-Transaktion Zwang und Druck in hohem Masse angewendet worden ist; die Verletzung der Haager Landkriegsordnung ist somit klar erwiesen.

(3) Rhone-Poulenc. Die Beschuldigung der Spoliation im Fall der Rhone-Poulenc zerfaellt in zwei Teile. Vor dem Krieg war diese Firma ein wichtiger franzoesischer Betrieb fuer die Erzeugung pharmazeutischer und verwandter Produkte. Der erste Teil betrifft einen zwischen der I.G. und der Socit des Usines Chimiques Rhone-Poulenc, Paris (genannt Rhone-Poulenc) geschlossenen Lizenzvertrag, der zweite Teil betrifft das sogenannte Theraplix Abkommen. Auf Grund des ersten Abkommens wurden waehrend der Kriegsjahre erhebliche Summen an die I.G. gezahlt als Lizenzgebuehr fuer Erzeugnisse, die unter dem Lizenzabkommen von der franzoesischen Firma produziert wurden. Auf Grund des zweiten Abkommens erwarb die I.G. schliesslich eine Majoritaet in einer Verkaufsgemeinschaft, die auf gemeinsame Rechnung der I.G. Bayer und der Rhone-Poulenc gefuehrt wurde.

Die Anklagebehörde macht geltend, dass beide Abkommen den Tatbestand der Spoliation erfüllen, da sie von den Franzosen gegen ihren Willen unter dem Druck abgeschlossen seien, den die I.G. während der militärischen Besetzung Frankreichs in Verfolgung ihres Plans angewandt habe, die französische pharmazeutische Industrie ihren Forderungsanspruch unterzuordnen.

Die wichtigsten Sachwerte, um die es sich bei der Rhone-Poulenc Transaktion handelte, befanden sich in der unbesetzten Zone Frankreichs. Wir brauchen hier nicht die Rechtsnatur dieser Abkommen zu erörtern, soweit sie sich mit dem Erwerb eines Anteils an Sachwerten befassen. Jedenfalls betrafen diese Abkommen Einkünfte, die sich aus der Produktion der in unbesetztem Gebiet befindlichen Betriebe ergaben. Die dort befindlichen Produktionsanlagen waren somit die Quelle der erheblichen Werte, um die es sich in diesen Verträgen handelte.

Die Lage des Grundbesitzes ^{der} und Fabriken ist von entscheidender Bedeutung bei Beantwortung der Frage, ob die fraglichen Transaktionen den Tatbestand der Spoliation erfüllen oder nicht. Es ist klar, dass sich diese Werke nicht in Gebieten befanden, die unter der Besetzung oder unmittelbaren Herrschaft der Wehrmacht standen. Die I.G. hatte also keine Möglichkeit, sich der Wehrmacht für die Erlangung des Besitzes der Betriebe zu bedienen oder auf die Franzosen einen Druck auszuüben, durch die Drohung, dass die Betriebe von Besatzungsheer beschlagnahmt oder enteignet werden würden. Dies ergibt sich aus einer Niederschrift über Berechnungen, die in Wiesbaden zwischen dem Angeklagten MAJON in seiner Eigenschaft als Vertreter der I.G. und Reichsbeamten stattgefunden haben. Dort heißt es: "Erhebliche Schädlichkeiten werden sich unbedingt aus der Lage Rhone-Poulenc im unbesetzten Gebiet ergeben, da die Einwirkungsmöglichkeiten gering sind. Aus diesem Grunde legt Dr. Kolb nahe, mittelbare Einwirkungen durch Einflussnahme auf Rohstoffzuteilungen im besetzten Gebiet zu versuchen." Offensichtlich also hatten die Drohungen, die man anzuwenden suchte, um die Franzosen zu den bei diesen Transaktionen in Frage kommenden Abkommen zu zwingen, nicht durch eine militärische Beschlagnahme von Grundstücken in die Tat umgesetzt werden können.

Der Druck sollte in einer Drohung bestehen, dass man möglicherweise das Unternehmen durch Sperre der notwendigen Rohstoffe erdrosseln werde. Es ergibt sich fernerhin, dass die I.G. einen Schadenersatzanspruch geltend machte wegen angeblicher Verletzung ihrer Patentrechte, obgleich sie genau wusste, dass die Erzeugnisse zu der Zeit, als die Verletzung stattfand, nach dem französischen Patentrecht nicht geschützt waren. Bei diesen Vorgehen scheint die I.G. weder offene noch versteckte Drohungen mit Beschlagnahme ausgesprochen zu haben. Obgleich ein solches Vorgehen vom ethischen Standpunkt aus zu missbilligen sein mag, so ist es doch keineswegs ein Beweis fuer den Tatbestand der unmittelbaren oder auf Umwegen herbeigefuehrten Pluenderung, weder im allgemein gueltigen Sinne noch im Sinne der Haager Landkriegsordnung.

D. Russland: Es kann kein Zweifel darueber bestehen, dass die besetzten Gebiete Russlands auf Grund eines vorsatztlichen Planes der nationalsozialistischen Regierungspolitik systematisch ausgepluendert worden sind. Die I.G. hat weitgehende Plaene fuer ihre Beteiligung an dieser Pluenderrungs- und Spoliationsaktion entworfen, aber diese Plaene sind niemals ausgefuehrt worden, und wir koennen auf Grund des uns vorliegenden Materials nicht feststellen, dass die Angeklagten an vollendeten Akten der Pluenderung in Russland in einer Weise beteiligt waren, die nach der Definition des Kontrollratgesetzes zur Annahme einer Straffaelligkeit ausreicht. Die I.G., vertreten durch den Angeklagten AMROS, hat allerdings Sachverstaendige ausgesucht und ernannt, die nach Russland gehen sollten, um die Buns-Werke in Betrieb zu nehmen, deren Besetzung durch die Deutschen erwartet wurde, und hat ihre Vorrechte auf die Ausbeutung der russischen Verfahren im Reich geltend gemacht; aber diese Plaene haben niemals das Stadium eines erwiesenermassen vollendeten Spoliationsaktes erreicht. Die Beweisaufnahme hat keinen Zweifel darueber gelassen, dass die I.G. durchaus nicht die Absicht hatte, bei der Ausbeutung des Ostens beiseite zu stehen. Mit dieser Absicht hat sie sich an Plaenen fuer den Aufbau der sogenannten Ostkonzerne beteiligt, die bei der Zurueckfuehrung der russischen Industrie in die Privatwirtschaft eine grosse Rolle spielen sollten.

Einige dieser Gesellschaften sind tatsächlich ins Leben gerufen worden, aber ihre Tätigkeit ist nicht ausreichend erwiesen, um die Feststellung einer strafbaren Handlung in diesem Zusammenhang zu rechtfertigen. Die I.G. hat den Erwerb von in Russland belegenen Eigentum beabsichtigt, aber es ist nicht bewiesen, dass Erwerb dieser Art je stattgefunden hat.

Die Anklagebehörde hat die Tätigkeit der Continental Oil Company besonders betont, die vor der Invasion Russlands gegründet wurde, und an der die I.G. mit einer geringen Anzahl Aktien beteiligt war. Wir haben nicht die Ueberzeugung gewonnen, dass die I.G. die Tätigkeit der Continental Oil Company jemals in wirksamer Weise geleitet oder beeinflusst hat, und wir können, solange kein vollständigeres Material über die unmittelbare und tätige Mitwirkung von KRAUCH und BUEPFISCH beigebracht ist, nicht zu der Feststellung kommen, dass ihre Mitgliedschaft im Aufsichtsrat - einem Organ, dem die Geschäftsführung nicht oblag - fuer sich allein eine Form der Beteiligung an den von der Continental Oil Company begangenen Spoliationsdelikten darstellt, die nach Kontrollratgesetz Nr. 10 zur Annahme ihrer Straffaeligkeit ausreicht.

Persoenliche Verantwortlichkeit:

Wir wenden uns jetzt der Erwaegung der Frage zu, ^{individuell} die Angeklagten fuer die in den obigen Ausfuehrungen beschriebenen Spoliationstaten persoenlich verantwortlich sind. Es muss hier erwaeht werden, dass die schuldige juristische Person, naemlich die I.G., nicht vor dem erkennenden Gericht steht und in diesem Verfahren nicht den von Strafgesetz angedrohten Strafen unterworfen werden kann. Wir haben bisher immer von der I.G. gesprochen, weil sie den Sammelbegriff bildete, dessen Name bei der Begehung der erwaehten Spoliationsdelikte benutzt worden ist. Aber juristische Personen handeln durch natuerliche Personen, und nach den bereits erwaehten Erfordernis der persoenlichen Schuld des einzelnen Angeklagten muss die Anklagebehoerde, um der ihr in diesem Fall obliegenden ~~gewislich~~^{gewislich} Genuegen, mit einer an Sicherheit grenzenden Wahrscheinlichkeit darten, dass ein bestimmter Angeklagter entweder an der Straftat mitgewirkt hat, oder sie in Kenntnis aller Tatumstaende befohlen oder gebilligt hat.

Verantwortlichkeit fuer eine Tat, deren strafbarer Charakter bewiesen ist, folgt nicht schon aus der blossen Tatsache, dass der Beschuldigte Mitglied des Vorstandes war. Auf der anderen Seite darf niemand das Rechtsinstitut der juristischen Person dazu benutzen, um sich von der strafrechtlichen Verantwortlichkeit fuer gesetzwidrige Handlungen freizumachen, die er geleitet, angeraten, unterstützt, befohlen oder begünstigt hat. Es muss jedoch bewiesen werden, dass eine der vorgenannten Teilnahmeformen und die Kenntnis der Tatbestandsmerkmale des Delikts vorliegt. Manche der Personen, die in einigen Einzelfaellen in der geschilderten Art taechtig geworden sind, stehen nicht vor dem erkennenden Gericht. In bezug auf andere Einzelfaelle weist das Aktenmaterial insoweit grosse Luecken auf, als es sich um die Frage handelt, wann und wo die grundlegenden Richtlinien angeordnet wurden. In wieder anderen Einzelfaellen sind die Richtlinien festgelegt worden, ohne dass wir klar erkennen koennen, ob Tatsachen bekannt waren, deren Kenntnis erforderlich ist, um die Festlegung der Richtlinien zu einem Delikt zu machen. Schwierigkeiten der insoweit erforderlichen Beweisfuhrung, die auf der Zerstoe rung der Unterlagen oder auf anderen Gruenden beruhen, entbinden die Anklagebehoerde nicht von ihrer Beweispflicht.

Fuer das Vorgehen der I.G. auf dem Gebiete der Spoliation gibt es keine Entschuldigung. Wenn die I.G. vielleicht auch nicht in den Reihen der Wehrmacht marschierte, so lag sie doch jedenfalls nicht weit zurueck. Die strafrechtliche Verantwortung muss aber auf die einzelnen Angeklagten fuer konkrete Straftaten verteilt werden, und das wirft ganz andere Fragen auf. Mit diesen Vorbemerkungen eroe rtern wir im folgenden die Feststellungen in bezug auf die einzelnen Angeklagten.

KLAUCH:

Die Beweisaufnahme hat nicht ergeben, dass KLAUCH in strafrechtlich erheblicher Weise mit den Spoliationsakten der I.G. in Polen in Verbindung gestanden hat. Infolge seiner Stellung bei der Regierung hat er sich nach 1936 nicht mehr mit Verwaltungsangelegenheiten der I.G. beschaeftigt, und nach seiner Ernennung zum Vorsitz des Aufsichtsrats im Jahre 1940 hatte er noch weniger mit der laufenden Geschaeftsfuhrung zu tun. Es ist kein Anhaltspunkt dafuer vorhanden, dass er bei der Festlegung der Richtlinien eine Rolle gespielt hat, die den Ausgangspunkt fuer den Erwerb der Werke in Polen durch die I.G. bildeten.

Hinsichtlich des angeblichen Abtransports von maschinellen Einrichtungen aus der Simongrube in Lothringen steht fest, dass Krauch einen Brief an das Kriegswirtschafts- und Ruestungsbureau geschrieben hat, in welchem er darum bat, dass die maschinellen Einrichtungen der Simongrube in Lothringen freigegeben und nach Gersthofen verbracht werden sollten. Der Gegenstand dieses Antrages war, die Steigerung der Erzeugung von elektrischer Energie. Dies war fuer das Aluminiumprogramm notwendig, fuer das Krauch verantwortlich war. Keitel genehmigte diesen Antrag, nachdem die Frage erwogen worden war, ob die geplanten Massnahmen einenbruch des Voelkerrechtes darstellen wuerden. Keitels Genehmigung des Antrages wurde Krauch mitgeteilt, und die Arbeit wurde einem Untergebenen Krauchs uebertragen. Das Beweismaterial ergibt jedoch nicht, dass die Demontage tatsaechlich ausgefuehrt wurde. Unter diesen Umstaenden kann Krauch auch fuer diesen Einzelfall des Anklagepunktes ZWBI nicht fuer schuldig befunden werden.

Was die Spoliation in Norwegen anlangt, so hat Krauch offenbar als technischer Ratgeber fungiert, nachdem die Ausfuehrung der Plaene fuer die Ausdehnung der Leichtmetallproduktion in Norwegen begonnen hatte. Vor Beginn des Projektes hatte er eine Besprechung mit dem Angeklagten Suergin, in der er lediglich verlangte, dass die I. G. das Ausmass der von ihr gewünschten Beteiligung an diesem Projekt angeben solle. Es ist nicht erwiesen, dass er einen hervorragenden Anteil an diesen Verhandlungen hatte und zwar weder in bezug auf die Gruendung von Nordisk-Lettmetall noch in bezug auf die Kapitalserhoehung der Norsk-Hydro. Seine Verbindung mit dem Norwegen-Projekt in seiner Eigenschaft als Koppensbergs technischer Sachverstaendiger und Berater fuer die erforderlichen Betriebseinrichtungen stellt unserer Ansicht nach eine zur Verurteilung ausreichende Beteiligung an der Ausnutzung der norwegischen Hilfsquellen nicht dar.

Das Beweismaterial ist auch nicht ausreichend fuer eine Verurteilung Krauchs, wegen der ihm vorgeworfenen Spoliation in Russland.

ist nicht erwiesen, dass irgendwelche Pläne, an denen er vielleicht beteiligt war, jemals ausgeführt worden sind, noch hat er sich bei der Blünderung und Spoliation der besetzten Ostgebiete betätigt. Seine Tätigkeit in Zusammenhang mit der Continental Oil Company ist in Einzelnen nicht aufgeklärt worden. Sie kann keine grosse Bedeutung gehabt haben, da KRAUCH nur Mitglied des Aufsichtsrates war und die Aufgabe hatte, die verhältnismässig kleine Kapitalbeteiligung der I.G. an dieser Gesellschaft zu vertreten. Nach deutschem Recht tragen die Mitglieder des Aufsichtsrats nicht die Verantwortung für die eigentliche Führung der Geschäftsgeschäfte.

Wir sind weiterhin der Ansicht, dass durch das Beweismaterial keine Verbindung zwischen dem Angeklagten Krauch und der unter Anklage gestellten Spoliation in Frankreich nicht dargetan worden ist. KRAUCH wird von sämtlichen Beschuldigungen unter Punkt Zwei der Anklage freigesprochen.

Schmitz:

Der Angeklagte Schmitz war Vorsitzender des Vorstandes, war Primas inter Pares seiner Mitglieder und Chef der Finanzverwaltung der I.G.. Seine Stellung verlangte es, dass er in wichtigen Fragen der Geschäftspolitik der I.G. in den Zeitspannen zwischen den Vorstandssitzungen zu Rate gezogen wurde. Es steht fest, dass er einen grösseren Pflichtenkreis und bessere Möglichkeiten zur Information hatte als die gewöhnlichen Vorstandsmitglieder. Trotz seiner Stellung ist jedoch durch das Beweismaterial nicht schlüssig nachgewiesen, dass er durch eine bestimmte eigene Handlung an den Spoliationsakten in Polen, Elsass-Lothringen oder Russland teilgenommen hat. Es ist richtig, dass er bei den Vorstandssitzungen den Vorsitz geführt und oft an anderen Zusammenkünften in der I.G. teilgenommen hat, darunter auch an den Sitzungen des kaufmännischen Ausschusses, in denen Besprechungen abgehalten, Berichte erstattet und Massnahmen geplant und gebilligt wurden. Aber eine Prüfung der Protokolle und Sitzungsberichte ergibt hinsichtlich der erwähnten Transaktionen nichts Belastendes gegen Schmitz. Im Allgemeinen ist das Beweismaterial demjenigen ähnlich, auf das wir unsere Beurteilung des Verhaltens der anderen Vorstandsmitglieder gestützt haben.

Insondert laesst das Beweisergebnis auch die Schlussfolgerung zu, dass die Erwerbungen in gesetlicher Weise stattgefunden haben moegen. Wir sind nicht mit einer an Sicherheit grenzenden Wahrscheinlichkeit davon ueberzeugt, dass der Angeklagte SCHMITZ sich einer Beteiligung an den Spoliationsakten der I.G. in Polen oder in Elsass-Lothringen schuldig gemacht hat.

In Falle der Francolor Abwerfung stuetzt sich die Beweisfuhrung auf eine andere Grundlage. SCHMITZ hat Niederschriften ueber die Wiesbadener Sitzungen erhalten, und die Beweisaufnahme hat weiterhin ergeben, dass er staendig von dem Verlauf der Verhandlungen waehrend der verschiedenen Konferenzen unterrichtet worden ist. Die Mitteilungen, die ihm auf diese Weise zu Gesicht kamen, waren ausreichend, um ihm ein Bild von den Druckmethoden zu geben, die angewandt wurden, um die Franzosen dazu zu zwingen, der Majoritaetsbeteiligung der I.G. an der franzoesischen Farbstoffindustrie zuzustimmen. Er hatte die Moeglichkeit, die Geschaeftspolitik zu beeinflussen und den Ereignissen nachdruecklich eine andere Richtung zu geben. Er stellen daher tatsaechlich fest, dass SCHMITZ von dem Programm der I.G., sich bei der Spoliation der franzoesischen Farbstoffindustrie zu beteiligen, Kenntnis ^{hat} gehabt und fuer dieses Programm mitverantwortlich ist, und dass er dieses Programm in Kenntnis aller Tatumstaende ausdruuecklich und durch schlussige Handlungen zugelassen und gebilligt hat. SCHMITZ muss in Bezug auf diesen Teil des Anklagepunktes ZWEI der Anklageschrift fuer schuldig befunden werden.

Zur Frage der Spoliation in Norwegen hat die Beweisaufnahme ergeben, dass SCHMITZ in seiner Eigenschaft als Vorsitzender des Vorstands besonders weitgehende Kenntnisse von dem ganzen Projekt gehabt hat. Er hat einen Brief von dem Angeklagten BUERGHE erhalten, in dem die Beteiligung der I.G. an diesem Projekt empfohlen wurde, und diese Beteiligung ist spaeter tatsaechlich uebernommen worden. Dies haette nicht ohne seine Kenntnisse und Zustimmung geschehen koennen. Ausgestattet mit besonders gruendlicher Kenntnis von dem Projekt, hat er an der Vorstandssitzung am 5. Februar 1941 teilgenommen, in der die Beteiligung an dem Nordisk-Istmetall Projekt grundsaetzlich beschlossen wurde. Ueber die Besprechungen mit Reichsbehoerden hat SCHMITZ gleichfalls Bericht erhalten. Er hat an wenigstens einer dieser Besprechungen teilgenommen,

in der die Massnahmen erörtert wurden, die bei dem Erwerb der Norsk-Hydro-Aktien durch die deutsche Gruppe zur Anwendung kommen sollten. Er war Mitglied des Styre, des Direktoriums der Norsk-Hydro, vor und nach der Kapitalerhöhung. Wir kommen zu dem Schluss, dass SCHMITZ ueber alle Einzelheiten des Nordisk-Lettmetall-Planes voellig unterrichtet gewesen ist und dass seine ausdrueckliche oder stillschweigende Zustimmung zu der Beteiligung der I.G. eine strafbare Mitwirkung im Sinne des Kontrollratgesetzes Nr. 10 darstellt.

SCHMITZ ist daher unter Anklagepunkt ZWEI der Anklageschrift schuldig.

von SCHMITZLER:

Von SCHMITZLER traegt die Hauptverantwortung fuer die Spolitionsakte der I.G. in Polen und Frankreich. Er war die fuehrende Persoenlichkeit und verantwortlich fuer die Festlegung der Geschaeftspolitik der I.G., die auf die Erlangung der Fuhrerstellung in der europaeischen Farbstoff- und Chemikalien-Industrie hienzielten. Er war es, der die Ausarbeitung von Plaeenen fuer den Erwerb der Betriebe veranlasst hat. Schon am sechsten Tage nach der Invasion Polens hat er vorgeschlagen, man solle sich an die Reichsbehoerde mit dem Vorschlag wenden, dass die I.G. den Betrieb der polnischen Farbstoff-Fabriken uebernehmen solle, deren baldige Besetzung durch die Deutschen erwartet wurde. Er hat die Ernennung der I.G. oder der von ihr benannten Personen zu Treuhandern fuer die polnischen Betriebe dringend empfohlen. Er hat alle Wffverhandlungen bis zu den endgueltigen Erwerb der Boruta gefuehrt oder ueberwacht, und er persoenlich hat die Vorschlaege fuer einen langfristigen Pachtvertrag zugunsten einer I.G. Tochtergesellschaft unterbreitet, die fuer diesen Zweck gegruendet werden sollte. Er persoenlich hat den Vertrag ueber den endgueltigen Erwerb der Boruta unterzeichnet. Er hat die endgueltige Schliessung des Betriebes der Wola ebenso beaufwacht wie die Ueberfuehrung der Betriebseinrichtungen der Wola und der Winnica in die Werke der I.G. in Deutschland. In allen diesen Angelegenheiten hat er die Regierungsstellen zum Einschreiten aufgefordert. Diese Tatsachen sind ausreichend, um seine Teilnahme an den polnischen Erwerbungen klarzustellen.

Die Beweisaufnahme hat

die strafbare Mitwirkung^v SCHNITZLERS bei den Erwerbungen der Vorzugswerte in Norwegen durch die I.G. nicht ergeben, auch ist das Beweismaterial nicht ausreichend, um seine Verurteilung wegen der ihm vorgeworfenen Beteiligung an der Spoliation in Elsass-Lothringen zu rechtfertigen.

Bei dem Erwerb der Francolor hat von SCHNITZLER gleichfalls auch eine führende Rolle gespielt. Er war der Hauptvertreter der I.G. bei der Zusammenkunft mit den Vertretern der französischen und der deutschen Regierung und den Abgesandten der französischen Farbstoffindustrie. Bei diesen Sitzungen sind Einschüchterungsmethoden angewandt worden als Bestandteil eines Plans, die Franzosen zur Bewilligung der Forderungen der I.G. zu zwingen. Von SCHNITZLER hat genau gewusst, dass die zuständigen Regierungsstellen in besetzten Frankreich aufgefordert worden waren, den französischen Farbstoff-Betrieben keine Rohstoffe zukommen zu lassen, die Beförderung von Waren in die unbesetzte Zone zu verhindern und den Franzosen überall Schwierigkeiten zu bereiten, um sie verhandlungsreif zu machen. Von SCHNITZLER hat sich an den Plan beteiligt, den Beginn der Verhandlungen zu versögern, um die Franzosen in eine noch hoffnungslosere Lage zu bringen und sie auf diese Weise den Forderungen der I.G. zugänglicher zu machen. Als die Verhandlungen schliesslich in Mosbaden begonnen wurden, ist er sich über die Atmosphäre der Einschüchterung völlig klar gewesen, die durch die Tatsache hervorgerufen worden war, dass die Sitzung unter den Auspizien der Waffenstillstandskommission stattfand. So haben sich denn auch SCHNITZLER und KUGLER in einem an den I.G. Vertreter KRIEGER gerichteten Brief wie folgt geäussert:

"Denn es liegt auf der Hand, dass unsere taktische Position den Franzosen gegenüber ungemein stärker ist, wenn die ersten grundlegenden Besprechungen in Deutschland, und zwar am Sitz der Waffenstillstandskommission stattfinden und unser Programm in der angegebenen Weise sozusagen von amtlicher Seite aus präsentiert wird."

Er persönlich hat den Vertretern der französischen Farbstoff-Industrie das Ultimatum mit den Forderungen der I.G. überreicht, das von den Franzosen als ein "Diktat" bezeichnet wurde. Weiter hat er die Konferenzen und Verhandlungen, die von untergeordneten Angestellten der I.G. geführt wurden, überwacht und Berichte über ihren Verlauf erhalten. Er persönlich hat das Francolor-Abkommen unterzeichnet, durch das

die französische Farbstoffindustrie gegen ihren Willen gezwungen wurde, der I.G. eine 51%ige Beteiligung an der französischen Industrie einzuräumen. Auf Grund des vorstehend geschilderten Ergebnisses der Beweisaufnahme ist festzustellen, dass von SCHMITZLER an den unrechtmässigen endgültigen Erwerb von Vermögensbeteiligungen in Frankreich durch die I.G. während einer kriegerischen Besetzung mitgewirkt hat. Dies stellt eine Verletzung der Privateigentumsrechte dar, die durch die Bestimmungen der Haager Landkriegsordnung geschützt sind. Von SCHMITZLER wird unter Anklagepunkt ZWEI der Anklageschrift fuer schuldig befunden.

GAJEWSKI:

Der Angeklagte GAJEWSKI hat bei keinen der in der Anklageschrift aufgeführten Spoliationsakte eine eigene Taetigkeit entwickelt. Die von der Anklagebehoerde unter diesem Anklagepunkt gegen ihn erhobenen Beschuldigungen sind daher nur dann begruendet, wenn seine regelmässige Anwesenheit bei den Sitzungen des Vorstands, des TEK, oder anderer Ausschussgruppen, bei denen die verschiedenen Erwerbungen in besetzten Laendern erörterten, geplant, in Berichten geschildert oder gutgeheissen wurden, als Teilnahme an den Placenderungs- und Spoliationsmassnahmen anzusehen ist. Es wird behauptet, dass er von solchen Erwerbungen, die Spoliationsmassnahmen darstellen, Kenntnis gehabt und sie gebilligt habe. Wie schon ausgeführt, kann ein Angeklagter nur dann fuer schuldig befunden werden, wenn die Beweisaufnahme eine Taetigkeit ergibt, die darin besteht, dass er Pläne oder Handlungen strafbarer Natur befohlen, gutgeheissen, genehmigt, oder bei der Ausfuhrung solcher Pläne oder Handlungen mitgewirkt hat. Es ist gemäss den Erfordernisse der persönlichen Verantwortlichkeit eines Beschuldigten fuer jeden Einzelfall notwendig, dass die Entscheidung der Frage nach der strafrechtlichen Verantwortung fuer Taten, die der betreffende Beschuldigte nicht selbst ausgeführt hat, davon abhaengig gemacht wird, ob die Handlung eines vertretungsberechtigten Angestellten, durch die eine rechtswidrige Tat angeordnet wurde, mit hinreichender Kenntnis derjenigen wesentlichen Einzelfaktoren der angeordneten Tat begangen worden ist, die sie zu einem Delikt stempeln. Bei Transaktionen, die nach aussen hin in gesetzlicher Form durchgeführt werden, bedeutet dies die sichere Kenntnis der Tatsache, dass während einer militärischen Besetzung -- ein Eigentümers Eigentum gegen seinen Willen seines Eigentums beraubt wird.

Wir haben die Niederschriften der Vorstandssitzungen und der Besprechungen anderer Ausschüsse der I.G. sorgsam geprüft, auf die sich die Anklagebehörde bei ihrem Versuch stützt, die strafbare Mitwirkung GJESKI an den in Anklagepunkt Z.I aufgeführten Verbrechen nachzuweisen; wir sind nicht der Auffassung, dass seine Billigung dieser Transaktionen ein Verhalten darstellt, das zur Verurteilung ausreicht. Die Niederschriften der erwähnten Ausschüsse der I.G. sind sehr kurz gehalten und ergeben in den meisten Fällen nur, dass der zuständige Angestellte der I.G., der mit der Ausführung des betreffenden Vorhabens betraut war, einen Bericht erstattet hat. Der Umfang des Berichtes lässt sich nicht erschauen. Die erstatteten und zur Verteilung gelangten Berichte und die Niederschriften der Erörterungen und Beschlüsse enthalten kein ausreichendes Beweismaterial, aus dem man mit Sicherheit schließen könnte, dass ungesetzliche Massnahmen bei den Verhandlungen zur Anwendung kommen sollten. Es lässt sich auch nicht aus den Berichten erschauen, dass die Transaktionen auch ohne die vorbehaltlose Zustimmung der Eigentümer durchgeführt worden sollten. Im Falle der Erwerbungen in Polen und Elsass-Lothringen, die in Verbindung mit unrechtmässigen Uteilmungen erfolgt sind, enthält das Protokoll keinen Beweis fuer die erforderliche Kenntnis der Tatsachen. Man kann bei der Abwägung all dieses Beweismaterials den dringenden Verdacht hegen, dass ueber die Verhandlungen tatsaechlich viel ausfuehrlicher berichtet worden sein mag, und dass die Vorstandmitglieder aus diesen Berichten genau erfahren haben moegen, dass Vermoegenswerte in besetzten Gebieten rechtmuetig erworben wurden, aber der Verdacht allein ist nicht gleichbedeutend mit dem notwendigen Beweis, da man aus den Niederschriften an sich auch eine nicht strafbare Handlungsweise entnehmen koennte. Daher reicht nach unserer Ansicht die Tatsache, dass GJESKI in den Vorstandssitzungen oder anderen Besprechungen, in denen die hier behandelten Erwerbungen von Vermoegenswerten erortert wurden, sein Einverstaendnis mit dem berichteten Vorgehen ausdruesslich oder durch schluessige Handlungen zu erkennen gegeben hat, nicht dazu aus, um seine Schuld gemass Anklagepunkt Z.I mit einer an Sicherheit grenzenden Wahrscheinlichkeit zu erweisen.

Es ergibt sich nicht aus der Beweisaufnahme, dass GJESKI Taetigkeit in der Kodak-Pathe Angelegenheit zu irgendeinem tatsaechlich vollendeten Spolationsakt gefuehrt hat. Es mag sein, dass seine Taetigkeit in diesem Fall die Grundlage fuer einen solchen Akt geschaffen hat, aber der Akt kam nicht zur Ausfuehrung.

Er wird von den unter diesem Anklagepunkt erhobenen Beschuldigungen freigesprochen, da wir nicht der Auffassung sind, dass seine Mitwirkung bei einer der in Anklagepunkt ZWEI aufgeführten Straftaten erwiesen ist.

HOERLEIN:

Es liegen keine tatsächlichen Beweise dafür vor, dass der Angeklagte HOERLEIN an den in der Anklageschrift aufgeführten Spoliationsakten in irgendeiner Weise beteiligt war, abgesehen von seiner Tätigkeit als Mitglied des Vorstands und des Technischen Ausschusses. In dieser Hinsicht sind unsere allgemeinen Ausführungen bei der Würdigung des Beweismaterials, auf das der Vorwurf gegen den Angeklagten GAJEWSKI gestützt wird, auch auf den Angeklagten HOERLEIN anwendbar. Die Beweisaufnahme zeigt besonders seine Verbindung mit der Rhone-Poulenc Transaktion bei der seine Beteiligung und seine Kenntnis offenbar über die eines gewöhnlichen Vorstandsmitglieds hinaus gegangen ist. Nach den Darlegungen, die wir bei unserer Beurteilung des allgemeinen Tatbestandes gemacht haben, stellt die Rhone-Poulenc Transaktion nach Ansicht des erkennenden Gerichts kein seiner Zuständigkeit unterliegendes Kriegsverbrechen dar, wie sehr man auch immer die Transaktion von anderen Gesichtspunkten aus missbilligen mag. Wir können aus der Tatsache, dass der Angeklagte HOERLEIN ein Mitglied des Vorstands war, keine strafrechtliche Verantwortlichkeit herleiten, und sprechen ihn daher von allen unter Anklagepunkt ZWEI der Anklageschrift aufgeführten Verbrechen frei.

Von KNIERIEM:

Von KNIERIEM war nicht nur ein Vorstandsmitglied der I.G., sondern er war auch der Chefyndikus der Gesellschaft. Aber die Beweisaufnahme hat nicht ergeben, dass er jemals in den Angelegenheiten, die unter Anklagepunkt ZWEI als Spoliationsakte zur Last gelegt wurden, tätig geworden ist. Nirgendwo wird gezeigt, dass er im Zusammenhang mit diesen Transaktionen um ein Rechtsgutachten gebeten worden ist, oder dass er die Durchführung dieser Transaktionen angeregt oder unterstützt hat. Das einzige Beweisstück, aus dem sich ergibt, dass von KNIERIEM sich mit Rechtsproblemen in besetzten Gebieten befasst hat, betrifft Gesellschaftsrechtliche^{che} Fragen ganz anderer Art, die unmittelbar nichts mit dem Erwerb von Vermögenswerten zu tun hatten, um die es sich in diesem Verfahren handelt.

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Es ist nicht erdiesen worden, dass von KNIERIEM Kenntnis von den Methoden gehabt hat, die von der I.G. bei dem Erwerb von Vermögenswerten in den besetzten Gebieten gegen den Willen und ohne die Zustimmung der Eigentümer angewendet wurden, oder dass er an den Erwerbungen in Polen und Elsass-Lothringen irgendwie beteiligt gewesen ist. Seine Tätigkeit als Rechtsberater bei der Gründung der Ostgesellschaften, die später möglicherweise ihre Tätigkeit in Russland aufnehmen sollten, steht mit keinem tatsächlich vollendeten Spoliationsakt in Verbindung. Von KNIERIEM wird unter Anklagepunkt Z.II der Anklageschrift freigesprochen.

TER MEER:

Wir stellen fest, dass die Beweisaufnahme die Schuld des Angeklagten ter MEER unter Anklagepunkt Z.II der Anklageschrift mit einer an Sicherheit grenzenden Wahrscheinlichkeit erdiesen hat. Ter MEER war einer der Hauptbeteiligten an den Massnahmen der I.G. bei dem Erwerb der Vermögenswerte in Polen sowie der Francoer. Die Beweisaufnahme hat ergeben, dass ter MEER im Namen der I.G. das Personal zur Inbetriebnahme der Fabriken ausgesucht hat. Es kann kein Zweifel darüber bestehen, dass der Plan zur Erwerbung der Vermögenswerte in Polen von der I.G. ausging, und dass ter MEER in seiner Eigenschaft als Vorsitzender des Technischen Ausschusses über die von der I.G. beabsichtigten Massnahmen und den Verlauf der Verhandlungen voll unterrichtet gewesen ist. Er hat Anweisungen für diese Verhandlungen gegeben. Zusammen mit dem Angeklagten von SCHMITZLER hat er die Genehmigung zum Erwerb der Boruta Fabrik gegeben. Wir haben keine strafbare Handlung in dem Erwerb der Finnica-Aktion gesehen, aber die Tatsache, dass dieser Vertrag die Unterschrift des Angeklagten ter MEER trägt, zeigt deutlich, in welchem Umfang er über die Massnahmen der I.G. in Polen unterrichtet und an ihnen beteiligt gewesen ist. Es ist klar, dass ter MEER seine Billigung der Spoliationsakten in Polen durch Handlungen zum Ausdruck gebracht und in dieser ganzen Angelegenheit mit von SCHMITZLER zusammengearbeitet hat.

Ter MEER hat bei der Planung der beabsichtigten Spoliation in Sowjet-Russland eine hervorragende Rolle gespielt, aber diese Pläne haben, wie schon bemerkt, nicht zur Vollendung eines Spoliationsaktes geführt. Das Beweisergebnis ist auch keineswegs ausreichend, um eine Beteiligung des Angeklagten ter MEER an der Spoliation im Falle Morsk-Hydro festzustellen.

Ter MEER hat bei dem Erwerb des enteigneten Krebshausener Betriebes durch die I.G. in strafbarer Weise mitgewirkt, da er von dem Erwerb Kenntnis gehabt und seine stillschweigende Zustimmung dazu gegeben hat. Er hat auch den Lizenz-Vertrag mit der Rhone-Poulenc gebilligt, diese Transaktion kann aber, wie schon bemerkt, nicht als strafbar angesehen werden.

Ter MEER hat eine führende Rolle bei den Francolor Verhandlungen gespielt. Er war bei den wichtigen Wiesbadener Sitzungen anwesend, in denen die Forderungen der I.G. den Franzosen überreicht wurden und Druck angewandt wurde, um die Zustimmung der Franzosen zu erlangen. Er hat Berichte von den I.G. Vertretern erhalten, die ausführlich genug waren, um ihm ein Bild von den Verlauf der Verhandlungen und den angewandten Methoden zu geben. Er hat das Francolor Abkommen unterzeichnet. Ter MEER hat selbst die Zwangslage der französischen Industrie genau gekannt und hatte Kenntnis davon, dass die I.G. sich mit Erfolg um die Unterstützung der nationalsozialistischen Behörden für ihren Plan bemüht hatte, der französischen Industrie die Wiederaufnahme ihrer Produktion zu erschweren. Wir können den Ausführungen der Verteidigung nicht beipflichten, dass dies ein normales Geschäft zwischen Parteien war, die volle Handlungsfreiheit besaßen, moegen sich die in den Francolor-Abkommen enthaltenen Bestimmungen beiden Seiten Verpflichtungen auferlegt haben. Ter MEER hat die Richtlinien für diese ganze Transaktion festgelegt, seine Beteiligung war daher von grösster Bedeutung. Er hat die Bedingungen diktiert und zusammen mit von SCHNITZER die Angelegenheit als verantwortliches Vorstandsmitglied bearbeitet. Er hat daher bei der Francolor Transaktion in strafbarer Weise mitgewirkt.

Wir sprechen den Angeklagten Ter MEER unter Anklagepunkt ZWEI der Anklageschrift schuldig.

SCHNEIDER, KUEHNE und LAUTNSCHLAGER:

Das Beweismaterial, auf das sich die Beschuldigung der Teilnahme an den unter Anklagepunkt ZWEI der Anklageschrift aufgeführten Spoliationsakten stützt, ist bei jedem der drei Angeklagten SCHNEIDER, KUEHNE und LAUTNSCHLAGER, in grossen und ganzen das gleiche.

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Die Anklagebehörde macht geltend, dass diese Angeklagten für das Programm der I.G. verantwortlich sind, Vermögenswerte in besetzten Gebieten mit Hilfe von Gewalt und Zwangsmassnahmen zu erwerben, und dass sie dieses Programm gekannt und gebilligt haben. Dazu wird ausgeführt, dass diese Angeklagten in ihrer Eigenschaft als Vorstandsmitglieder den Sitzungen des Vorstands, der I.G.-Ausschüsse und anderer Gruppen mit massgebendem Einfluss auf die Geschäftspolitik beigewohnt hatten, bei denen derartige Massnahmen angeordnet oder gebilligt wurden. Weiterhin wird vorgetragen, dass die Angeklagten Berichte erhalten hatten, aus denen die geplanten Massnahmen zu erschen waren. Wir haben dieses Beweismaterial sorgsam geprüft. Unsere Ausführungen ueber die persönliche Verantwortlichkeit des Angeklagten GWEISSI gelten auch in diesem Fall. Nach unserer Ansicht ist das Beweisergebnis nicht ausreichend, um eine in voller Kenntnis der Tatsachen begangene, in zustimmendem Verhalten bestehende Handlung festzustellen, die weitgehend genug ist, um als strafbar angesehen zu werden und somit eine Verurteilung dieser drei Angeklagten zu rechtfertigen. Alle drei Angeklagten werden daher von der in Anklagepunkt XXI enthaltenen Anklage freigesprochen.

AMEROS:

Der Angeklagte AMEROS war waehrend der ganzen Dauer des zweiten Weltkrieges Mitglied des Vorstandes der I.G. Die Anklagebehörde macht geltend, dass AMEROS in dieser Eigenschaft und als Mitglied des Technischen Ausschusses an der Planung der Spoliation und Auspluenderung beteiligt war, und dass er alle die von der I.G. begangenen Spoliationsakte ausdruecklich genehmigt und gedeckt hat. Solche Handlungen des Angeklagten AMEROS sind nicht in ueberzeugender Weise nachgewiesen worden, auch wenn er bei den in der Anklageschrift erwachten Sitzungen haeufig anwesend war. Wir sind nicht der Auffassung, dass die Beweisaufnahme seine Mitwirkung bei den gesetzwidrigen Erwerbungen von Vermögenswerten durch die I.G. ergeben hat. Es ist zwar richtig, dass er darauf gedrungen hat, die russischen Buna-Fabriken von Sachverständigen der I.G. in Betrieb nehmen zu lassen, und dass er im Namen der I.G. das alleinige Verfuogungsrecht ueber die russischen Betriebe und Verfahren verlangt hat. Aber die Beweisaufnahme hat, wie schon oben dargelegt, keinen tatsaechlich vollendeten Spoliationsakt in Russland aufgezeigt, an dem dieser Angeklagte beteiligt war.

Die beabsichtigte Spoliation ist durch die Niederlage des deutschen Heeres in Russland verhindert worden. Ambros hat die Absicht gehabt, die russischen Betriebe fuer die I.G. zu erwerben und auszubeuten, aber diese Plaene sind nicht in die Tat umgesetzt worden. Wir sind nicht der Auffassung, dass seine Taetigkeit zur Erhoehung der Produktion in den Francolor-Betrieben nach ihrem Uebergang auf die I.G. ausreichend ist, um eine Verurteilung zu rechtfertigen.

AMBROS wird unter Anklagepunkt ZWEI der Anklageschrift freigesprochen.

BUEGIN:

Die Beweisaufnahme hat ergeben, dass der Angeklagte BUEGIN genau von den Plaenen unterrichtet war, die die Uebnahme des in Polen befindlichen Boruta Betriebes durch eine zu diesem Zwecke zu gruendende deutsche Gesellschaft zum Ziel hatten; aber er ist nicht persoenlich bei der Erwerbung dieses Betriebes durch die I.G. beteiligt gewesen. Es ist nicht eindeutig bewiesen, dass seine Reise nach Polen mit dem Vorgehen der I.G. bei dem Erwerb der polnischen Vermoegenswerte in unmittelbarem Zusammenhang gestanden hat. Es ist auch nicht bewiesen, dass sein Bericht an den Vorstand ueber die Wirtschaftsbedingungen und die technische Leistungsfahigkeit der Betriebe ursaechlich war fuer die nachfolgenden Handlungen der I.G., Ebenso sind wir der Auffassung, dass das Beweismaterial nicht ausreicht, um BUEGIN wegen der in der Anklageschrift zur Last gelegten Spoliationsakte in Russland, Frankreich und Elsass-Lothringen zu verurteilen.

Fuer die in Norwegen begangenen Verbrechen aber traegt der Angeklagte BUEGIN eine besondere Verantwortung. Er hat den Plan einer Beteiligung der I.G. an dem norwegischen Aluminium-Vorhaben veranlasst, und er hat zugegeben, dass eine dauernde Beteiligung und der endgueltige Erwerb von Interessen in der norwegischen Leichtmetallherzeugung beabsichtigt war. BUEGIN hat an SCHMITZ und von MEER geschrieben und eine Beteiligung im grossen Massstabe an den Plan empfohlen, die norwegischen Hilfsquellen zur Foerderung der Leichtmetallherzeugung fuer die Luftwaffe auszubenten. Diese angefuhrten Urkunden ergeben seine Schuld unter Anklagepunkt ZWEI. Es ist jedoch nicht erwiesen, dass er in irgendeiner Weise an den Massnahmen beteiligt gewesen ist, durch die die franzoesischen Aktionaeere ihrer Majoritaet bei der Norsk-Hydro beraubt wurden.

Wegen seiner Beteiligung an dem ersten Teil der in Norwegen begangenen Spoliation sprechen wir ihn unter Anklagepunkt Z III der Anklageschrift schuldig.

BUSTEFISCH:

Der Angeklagte BUSTEFISCH war ein Vorstandsmitglied der I.G., und in dieser Eigenschaft wird er in der Anklageschrift der Beteiligung an der Spoliation der von Deutschland besetzten Gebiete von Polen, Frankreich, Norwegen und Sowjet-Russland beschuldigt. Das Beweismaterial, auf das sich diese Beschuldigungen stützen, ist sorgsam geprüft worden. Nach unserer Auffassung ist es nicht ausreichend für die Feststellung, dass der Angeklagte BUSTEFISCH an diesen Spoliationsakten unmittelbar mitgewirkt hat, oder überhaupt im Sinne des Kontrollratsgesetzes Nr. 10 beteiligt war.

Die Anklagebehörde betont besonders die Verbindung BUSTEFISCHs mit der Continental Oil Company, die, wie das LG festgestellt hat, Spoliationsdelikte in den besetzten Gebieten begangen hat. BUSTEFISCH war Mitglied des Aufsichtsrats der Continental Oil Company, aber die Beweisaufnahme hat nicht ergeben, dass seine Tätigkeit in der Geschäftsführung des Konzerns von besonderer Bedeutung gewesen ist. Das Beweismaterial hat auch nicht ergeben, dass er die Handlungen der Continental Oil Company, die Spoliationsdelikte darstellen, angeordnet, genehmigt oder geleitet hat. Die Beweisaufnahme hat nicht mit einer an Sicherheit grenzenden Wahrscheinlichkeit ergeben, dass BUSTEFISCH auf Grund seiner Tätigkeit bei der Continental Oil Company sich gemäss Anklagepunkt Z III strafbar gemacht hat. Er wird daher von allen unter diesem Anklagepunkt aufgeführten Verbrechen freigesprochen.

HAEFLIGER:

Es ist richtig, dass HAEFLIGER als Vorstandsmitglied von dem Vorschlag, die I.G. zum Treuhänder für die polnischen Betriebe zu ernennen, Kenntnis gehabt hat, und auf Anraten von SCHMITZ bei einer einleitenden Konferenz mit dem Wirtschaftsministerium die Angelegenheit der polnischen Betriebe zur Sprache gebracht hat. Bei der Konferenz wurde aber nur die Ernennung der für die kaufmännische und technische Führung des Betriebes notwendigen Sachverständigen erörtert, und das Ministerium war zuerst nicht für den Vorschlag eingenommen.

Die Beweisaufnahme hat nicht ergeben, dass HAEFLIGER mit irgendeiner späteren Massnahme der I.G. zum Zwecke des Erwerbs der polnischen Betriebe in Verbindung gestanden hat. HAEFLIGER hat ausgesagt, er habe damals nicht gewusst, dass ein endgültiger Erwerb dieser Betriebe beabsichtigt gewesen sei. Nach unserer Auffassung ist nicht mit einer an Sicherheit grenzenden Wahrscheinlichkeit nachgewiesen, dass HAEFLIGER an der Spoliation und Ausplünderung der polnischen Betriebe durch die I.G. beteiligt gewesen ist. Seine spätere Tätigkeit als Vorstandsmitglied kann nicht anders beurteilt werden als die in der Beweisaufnahme festgestellte Tätigkeit der anderen Angeklagten; auch sie würde eine Verurteilung nicht rechtfertigen.

HAEFLIGER war dagegen an den Plänen zur Spoliation von Norwegen in strafbarer Weise beteiligt. Er hat dem Vorstand Bericht erstattet ueber die Beteiligung der I.G. an der beabsichtigten Ausbeutung der norwegischen Hilfsquellen zur Foerderung der deutschen Kriegswirtschaft. Er war bei Sitzungen im Reichsluftfahrtministerium anwesend, in denen Einzelheiten des Projekts und eine moegliche Beteiligung geplant und erortert wurden. Er war sich voellig darueber im Klaren, dass das Projekt ein Ruestungsausbauprogramm darstellte. Er hat gewusst, dass einer der Nebenpunkte des Planes darin bestand, die Majoritaet der franzoesischen Aktionaere zu erwerben. Wir sind hodenkenfrei davon ueberzeugt, dass HAEFLIGER auf Grund seiner umfangreichen Tätigkeit in dieser ganzen Angelegenheit gewusst hat, dass die Norsk-Hydro gegen den Willen und ohne die Zustimmung der Eigentuerer gezwungen wurde, sich an dieses Projekt zu beteiligen, das die Benutzung ihrer Fabriken zu Gunsten der feindlichen Ruestung waehrend einer militaerischen Besetzung vorsah, und dass die franzoesischen Aktionaere ihre Majoritaetsbeteiligung in der Norsk-Hydro nicht freiwillig aufgaben. Er hat dieses Vorgehen gebilligt und ist daran beteiligt gewesen.

Wegen seiner Teilnahme an dem norwegischen Unternehmen wird HAEFLIGER unter Anklagepunkt ZWEI der Anklageschrift fuer schuldig befunden.

ILNER:

Der Angeklagte ILNER war an der spoliation von Norwegen tätig beteiligt und muss unter Anklagepunkt Z.II der Anklageschrift^{für}/schuldig befunden werden. Er war die massgebende Persönlichkeit bei der Einleitung und Überwachung der verschiedenen Verhandlungen, welche zu dem Norsk-Hydro-Abkommen führten, das die französischen Aktionäre ihrer Majoritätsbeteiligung zum Vorteil einer deutschen Gruppe beraubte, der die I.G. angehörte. Er hatte genaue Kenntnis von dem Umfang der beabsichtigten Ausbeutung der norwegischen Wirtschaft im Rahmen des Leichtmetallprogramms der Luftwaffe und hat energisch an dem Plan mitgewirkt. Der Plan sah den endgültigen Erwerb einer grosseren Beteiligung an der norwegischen Leichtmetall-Industrie durch die I.G. vor. ILNER war somit als Mittäter bei dem Plan beteiligt, unter völliger Ausschüttelung des Bedarfs der norwegischen Wirtschaft die Verwendung der Norsk-Hydro-Betriebe im Rahmen des Ausbauprogramms für den deutschen Kriegsbedarf zu erzwingen. Ebenso war er beteiligt an dem Plan, diese Gelegenheit zu benutzen, um die Majorität an dem Aktienbesitz der Norsk-Hydro für Deutschland zu sichern. ILNER hat zugegeben, dass die Franzosen bei der Sitzung vom 30. Juni 1941 nicht anwesend waren, bei der die Beteiligung der Norsk-Hydro an der Nordisk-Leichtmetall und die Erhöhung des Aktienkapitals der Norsk-Hydro beschlossen wurde. Die Beweisaufnahme hat ergeben, dass ILNER den Standpunkt vertreten hat, dass die Anwesenheit aller Aktionäre für die Sicherung ihrer Rechte nicht erforderlich sei. Obgleich das vorliegende Material in diesem Punkt viele Widersprüche aufweist, sind wir überzeugt, dass die französischen Aktionäre der Norsk-Hydro über den vollen Umfang des Nordisk-Leichtmetall Projekts nicht ausreichend unterrichtet worden sind; es war niemals ihre Absicht, ihre Majorität in der Norsk-Hydro aufzugeben, und als sie den ganzen Plan übersehen konnten, machten sie nur mit, weil sie die Enteignung ihrer in Norwegen befindlichen Betriebe während der militärischen Besetzung fürchteten. ILNER selbst hat in einem Affidavit ausgesagt:

"Welche Ermittelungen die französische Bank leitete, die Kapitalerhöhung zu genehmigen, durch die die bis dahin von den Franzosen gehaltene Majorität der Norsk Hydro

zu einer Minorität wurde, weise ich nicht im einzelnen. Ich möchte annehmen, sie taten es unter dem Gesichtspunkt des geringeren Übels, und weil letzten Endes die I.G. dabei beteiligt war und auch dazu riet.

Nach unserer Auffassung hat die Beweisaufnahme die strafbare Beteiligung des Angeklagten ILGNER an der Spoliation der Norsk-Hydro mit einer an Sicherheit grenzenden Wahrscheinlichkeit ergeben, und der Angeklagte ILGNER wird unter Anklagepunkt ZWEI fuer schuldig befunden.

Wir sind nicht der Auffassung, dass die Beweisaufnahme die Beteiligung des Angeklagten ILGNER an den anderen Handlungen, die unter Anklagepunkt ZWEI als Spoliationsakte genannt werden, bedenkenfrei ergeben hat.

J. JEHNE:

Die Anklagebehörde macht geltend, dass J. JEHNE in seiner Eigenschaft als Direktor des Werks Offenbach der I.G. an dem Erwerb der abmontierten Betriebseinrichtungen beteiligt gewesen ist, die von Wols in diese Fabrik ueberfuehrt wurden. Das Beweismaterial enthaelt in dieser Hinsicht Widersprueche. Untergeordnete Angestellte haben ausgesagt, dass J. JEHNE tatsaechlich nicht von dem Erwerb unterrichtet gewesen sei. Wir sind zu dem Schluss gekommen, dass hinsichtlich seiner Kenntnis in dieser Angelegenheit Zweifel bestehen, und da der Angeklagte J. JEHNE mit den sonstigen von der I.G. in Polen begangenen Spoliationsakten nicht in Verbindung gestanden hat, wird er unter diesem Teil von Anklagepunkt ZWEI freigesprochen.

Die Beweisaufnahme hat jedoch ergeben, dass J. JEHNE beteiligt gewesen ist an bestimmten Verhandlungen mit Regierungsbehoerden, die den Erwerb der entzogenen Sauerstoff- und Acetylenbetriebe in Elsass-Lothringen durch die I.G. vorausgingen, und dass er bei diesen Verhandlungen die Zustimmung zu den Vorschlaegen der I.G. erreicht hat. J. JEHNE war genau unterrichtet ueber die von der I.G. bei dem Erwerb dieser Betriebe begangenen Spoliationsdelikte, und er ist an diesen Delikten mitwirkend beteiligt gewesen. Die Tatsache, dass die I.G. den endgueltigen Erwerb der Betriebe von Anfang an beabsichtigt hat, ist durch die Beweisaufnahme zweifelsfrei erwiesen worden. Die Behauptung der Industrie in Elsass-Lothringen mag die Besatzungsbehoerden dazu gezwungen haben die Fabriken wieder in Betrieb zu nehmen, aber dieser Einwand greift nicht durch.

da klar ersichtlich ist, dass die I.G. nicht nur die Niederinbetriebsetzung der Fabriken im Interesse der Wirtschaft des Landes, sondern ihren endgültigen Erwerb beabsichtigt hat. Ein Angestellter der I.G. namens Meyer-Bogelin, der die Verhandlungen mit den nationalsozialistischen Regierungsbehörden zum grössten Teil geführt hat, hat die Angelegenheit folgendermassen dargestellt:

"Mit diesen früheren Eigentümern wurden keinerlei Verhandlungen geführt und ihr Interesse von uns nicht erregt. Wir verhandelten vielmehr mit den von dem Deutschen Reich eingesetzten Zwangsverwaltern. Wir waren uns freilich bewusst, dass der kaufliche Erwerb des Grundbesitzes und der Anlagen, soweit sie noch standen, nach den internationalen Verträgen angreifbar sein könnten, und wir rechneten daher mit der Möglichkeit, die Grundstücke später wieder herausgeben zu müssen.... Mit anderen Worten: Wir kamen zum Ergebnis, wir sollten es riskieren, den Erwerb wieder herausgeben zu müssen, um jetzt diese Sauerstoffposition zu halten.

Die Mitwirkung MANNs bei dieser Angelegenheit war so weitgehend, dass ihm unter diesem Teil von Anklagepunkt ZWEI der Anklageschrift eine strafrechtliche Verantwortung zugesprochen werden muss.

Das vorliegende Beweismaterial ist nicht ausreichend, um ihn auf Grund von anderen unter Anklagepunkt ZWEI aufgeführten Handlungen zu verurteilen.

MANN:

Die nachheren Einzelheiten von MANNs Tätigkeit im Zusammenhang mit der Spoliation von Norwegen und Russland sind nicht hinreichend aufgeklärt worden, um eine Feststellung seiner strafrechtlichen Verantwortlichkeit fuer die unter Anklagepunkt ZWEI aufgeführten Handlungen zu rechtfertigen. Er hat sich in der Francolor-Angelegenheit nicht betätigt, wenn auch die Beweisaufnahme gezeigt hat, dass er im Verlauf seiner einleitenden Verhandlungen mit den nationalsozialistischen Behörden in Frankreich, die der Rhône-Poulenc Transaktion vorausgingen, ueber den von der I.G. beabsichtigten Erwerb einer Majoritätsbeteiligung an der französischen Farbstoffindustrie unterrichtet worden ist. Offensichtlich ist seine Verbindung mit der Francolor-Angelegenheit aber nur eine Begleiterscheinung seiner Haupttätigkeit bei der ihm mehr interessierenden Rhône-Poulenc Transaktion gewesen. Seine Kenntnisse in anderer Hinsicht und seine Tätigkeit als Mitglied des Kaufmännischen Ausschusses und als Vorstandsmitglied der I.G. reichen ebenfalls nicht fuer eine Verurteilung aus. Unsere im Falle des Angeklagten G.J.E.H. zu diesem Punkt gemachten Ausführungen sind auch auf den Fall von MANN anwendbar.

Dank die Rhône-Poulenc Transaktionen, bei denen er die führende Rolle spielte, keine unter die Zuständigkeit des erkennenden Gerichts fallenden Straftaten darstellen, und da die Beweisaufnahme seine Mitwirkung bei anderen als strafbar bezeichneten Handlungen nicht ergeben hat, wird KERN unter Anklagepunkt ZWEI der Anklageschrift freigesprochen.

OSTER:

OSTERs Beteiligung an den unter diesem Anklagepunkt aufgeführten Verbrechen in Polen, Elsass-Lothringen und Frankreich, kann nicht anders beurteilt werden, als die anderer Vorstandsmitglieder, deren Mitwirkung bei der Anordnung oder Genehmigung als strafbar anerkannter Handlungen auf Grund ihrer unzureichenden Kenntnis des vollständigen Tatsachenmaterials nicht als festgestellt angesehen werden kann. Die Anklagebehörde will OSTER jedoch noch besonders verantwortlich machen fuer seine Tätigkeit in Zusammenhang mit der Spoliation in Norwegen. Es hat sich ergeben, dass OSTER nach der Einleitung des Nordisk-Lettmetall-Projekts Mitglied des Aufsichtsrats der Norsk-Hydro war, und dass er auf Grund der Vorstandssitzungen und der ihm zugesandten Berichte ueber den allgemeinen Charakter und Zweck des Programms unterrichtet gewesen ist, das die Verwendung der Norsk-Hydro Fabriken fuer den Ausbau der Leichtmetallerzeugung in Norwegen zur Foerderung der Luftwaffenproduktion vorsah. Die Beweisaufnahme hat die Behauptung der Anklagebehörde nicht bestaetigt, dass der Angeklagte OSTER persoenlich bei der Ausuebung eines Druckes auf die Norsk-Hydro mitgewirkt hat; es ist nicht einmal erdiesen, dass er in den Verhandlungen mit den Vertretern der Norsk-Hydro unaufrichtig war. Dr. ERIKSEN hat sogar ausgesagt, dass OSTERs Verhalten in der ganzen Angelegenheit durchaus freundlich war. Die Beweisaufnahme hat jedoch OSTERs Kenntnis von der Tatsache ergeben, dass das Projekt gegen den Willen der Norsk-Hydro durchgefuehrt wurde, und dass die I.G. auf dem Wege ueber das Nordisk-Lettmetall Projekt und mittels des durch die militaerische Besetzung ausgeuebten Zwanges die dauernde Beteiligung an den Vermögenswerten der Norsk-Hydro erlangte. In Kenntnis dieser Umstaende hat er der Beteiligung der I.G. an dem Projekt zugestimmt. Er wird deswegen unter Anklagepunkt ZIII der Anklageschrift fuer schuldig befunden.

URSTER;

Sofort nach dem polnischen Zusammenbruch machte URSTER in Begleitung eines Vertreters des Reichsamtes fuer Wirtschaftsausbau eine Reise nach Polen, um die polnischen chemischen Betriebe zu besichtigen. In einem Brief an den Angeklagten BUECHER unterbreitete er einen Bericht, in dem er die Ergebnisse seiner Besichtigungsreise auseinandersetzte. Der Bericht enthaelt Erwagungen ueber den zukuenftigen Wert dieser Betriebe fuer die deutsche Wirtschaft und fuer militaerische Zwecke; in einigen Faellen wird vorgeschlagen, den Betrieb der Fabriken fortzusetzen, in anderen Faellen, gewisse Betriebsanlagen abzusmontieren. Aber es ist nicht erdiesen, dass dieser Bericht die Grundlage fuer die Massnahmen gebildet hat, die von den Reichsbehoerden in den Ostgebieten oder von der I.G. in bezug auf diese Vermoegenswerte getroffen wurden. Nach unserer Auffassung kann diese Handlung fuer sich allein eine Verurteilung wegen der in Anklagepunkt 2 ZII behaupteten gegen die polnischen Vermoegenswerte gerichteten Straftaten nicht rechtfertigen.

In Falle der Spoliation in Elsass-Lothringen hat die Beweisaufnahme ergeben, dass URSTER mit verschiedenen Personen Besprechungen ueber die Ausnutzung von Betriebsanlagen in Elsass-Lothringen gehabt hat. Einige dieser Betriebe waren schon geschlossen und verlassen. Die Beweisaufnahme hat keineswegs eindeutig erdiesen, dass eine von URSTER begangene Handlung ursaechlich dafuer war, dass die I.G. Vermoegenswerte entweder unter ihren boherrschenden Einfluss brachte oder zu Eigentum erwarb. Die Beweisaufnahme hat auch nicht ergeben, dass URSTER selbst mit einer Regierungsbehoerde jemals verhandelt hat, um den Erwerb dieser Betriebe durch die I.G. zu erleichtern. In diesem Punkt treten berechnigte Zweifel auf, und wir sind nicht der Auffassung, dass URSTER sich an die Behoerden in der Absicht gewendet hat, diese Betriebe fuer die I.G. zu erwerben. Wir sind nicht der Auffassung, dass URSTERS Beteiligung an den unter diesem Anklagepunkt zur Last gelegten Handlungen strafrechtlich von Erheblichkeit ist.

Der Angeklagte URSTER wird daher unter Anklagepunkt 2 ZII der Anklageschrift freigesprochen.

DUERRFELD, GATTINEAU und von der HEYDE:

Vier der Angeklagten - namentlich DUERRFELD, GATTINEAU, von der HEYDE und KUGLER - waren nicht Mitglieder des Vorstands der I.G.

Die Beweisaufnahme hat nicht ergeben, dass die Tätigkeit des Angeklagten DUERRFELD mit den unter Anklagepunkt ZWEI zur Last gelegten Eigentumsdelikten in Zusammenhang gestanden hat. Wir sprechen deshalb den Angeklagten DUERRFELD von der Anklage unter Anklagepunkt ZWEI frei.

Der Angeklagte GATTINEAU wird ebenfalls insoweit freigesprochen, die ihm zur Last gelegten Spoliationsakte, bei denen er eng beteiligt war, hängen wesentlich mit seiner Tätigkeit bei den Erwerbungen in Österreich und der Tschechoslowakei zusammen, die gemäss dem früher erwichten Gerichtsbeschluss nicht solche Verbrechen gegen die Menschlichkeit oder Kriegsverbrechen darstellen, deren Aburteilung in den Rahmen der Zuständigkeit des erkennenden Gerichts fällt. Die bloße Tatsache, dass GATTINEAU bei den Sitzungen des Kaufmannischen Ausschusses, in denen Berichte über die Rhône-Poulenc Verhandlungen erstattet wurden, anwesend gewesen ist, und seine übrige allgemein kaufmännische Tätigkeit als Angestellter der I.G., genügen nicht, um eine zur Verurteilung unter dem Anklagepunkt der Spoliation ausreichende Teilnahme festzustellen.

Die Anklagebehörde gibt in ihrem abschliessenden Schriftsatz zu, dass die Beweisführung die Schuld des Angeklagten von der HEYDE unter Anklagepunkt ZWEI nicht mit einer an Sicherheit grenzenden Wahrscheinlichkeit ergeben hat. Wir haben keinen tatsächlichen Beweis für die Beteiligung von der HEYDE an den zur Last gelegten Verbrechen gefunden. Er wird unter Anklagepunkt ZWEI freigesprochen.

KUGLER:

KUGLER war zwar nicht Vorstandsmitglied der I.G., wohl aber Mitglied des Kaufmannischen Ausschusses, und er hat auf dem Farbstoffgebiet eine führende Rolle gespielt. Nach unserer Auffassung liegt kein überzeugender Beweis dafür vor, dass die Tätigkeit des Angeklagten KUGLER eine genügend weitgehende Beteiligung an den von der I.G.

in Polen und Elsass-Lothringen begangenen Spoliationsakte darstellt, um seine Verurteilung auf Grund dieser in der Anklageschrift aufgeführten Handlungen zu rechtfertigen. Aber KUGLER hat als Vertreter der I.G. bei den Verhandlungen und anderen Massnahmen tätig mitgewirkt, die zu dem Francolor-Abkommen führten. Es ist zwar richtig, dass er in dieser Angelegenheit nicht selbstständig, sondern nach den Weisungen zweier Vorstandsmitglieder, von SCHITZLER und von MEER, gehandelt hat, deren Befugnisse und massgeblicher Einfluss auf die Geschäftsführung weit grösser waren als die von KUGLER. Er hat den einleitenden Besprechungen mit der Waffenstillstandskommission und den Sitzungen in Moskau im November 1940 beigewohnt, bei denen die Forderungen der I.G. den französischen Farbstoff-Vorstehern überreicht und die Franzosen unter Druck gesetzt wurden, um sie dazu zu zwingen, der von der I.G. geforderten ständigen Beteiligung an der französischen Industrie zuzustimmen. KUGLER hat mit den Behörden während der militärischen Besetzung die Abmachung getroffen, dass ein Druck ausgeübt werden solle, und er war es, der die Unterzeichnung dieser Behörden erlangt hat für seinen Vorschlag, "dass keine Erleichterungen für die Produktion gewährt werden sollten, die die Bereitschaft des Gegners zu Verhandlungen vermindern könnten." KUGLER war über alle getroffenen Massnahmen unterrichtet und hat gewusst, dass das Francolor-Abkommen den Franzosen gegen ihren Willen und ohne ihre freie Zustimmung aufgezerrt wurde. Er hat an der Sitzung teilgenommen, in der das Francolor-Abkommen geschlossen wurde, und war späterhin Mitglied eines wichtigen Francolor-Ausschusses. Wenn er auch nicht die führende Persönlichkeit gewesen ist, welche die für die gesetzwidrigen Erwerbungen richtunggebende Politik festlegte, so hat er doch bei der Ausführung des gesamten Unternehmens in strafbarer Weise mitgewirkt und muss unter Anklagepunkt VII verurteilt werden.

ANKLAGEPUNKT DREI

In Anklagepunkt DREI wurden die Angeklagten beschuldigt, einzeln, gemeinsam, und unter Benützung der I.G. als Werkzeug Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im Sinne des Artikels II des Kontrollratsgesetzes Nr. 10 begangen zu haben. Es wird behauptet, dass sie teilgenommen haben: An der Versklavung der Zivilbevölkerung von Gebieten, die während des Krieges unter der Besetzung oder sonst unter deutscher Herrschaft standen, an der Verschleppung dieser Menschen zur Sklavenerbeit, an der Versklavung von Konzentrationslagerinsassen, unter denen sich auch Deutsche befanden, und schließlich an der Verwendung von Kriegsgefangenen zu Kriegsoperationen und zu Arbeiten, die in unmittelbarer Beziehung zu solchen Kriegshandlungen standen. Weiterhin wird behauptet, dass die versklavten Personen terrorisiert, gefoltert und ermordet wurden.

Auf diese allgemeine Beschuldigung folgt eine Aufzählung der Einzelheiten, die aus zweiundzwanzig Ziffern besteht. Aus dieser Aufstellung ergibt sich, dass die Anklagebehörde diesen Anklagepunkt auf vier Tatschengruppen stützt, die folgendermassen zusammengefasst sind: a) die Rolle der I.G. bei dem Sklavenerbeitsprogramm des Dritten Reiches, b) die Verwendung von Giftgas, das von der I.G. geliefert war, bei der Ausrottung von Konzentrationslagerinsassen, c) die Lieferung von giftigen Chemikalien der I.G. fuer verbrecherische medizinische Versuche an versklavten Personen, und d) die gesetzwidrige und unmenschliche Handlungsweise der Angeklagten in Zusammenhang mit dem Werk Auschwitz der I.G.. Diese Einteilung des Anklagevortrages wird in der Anordnung der Urteilsgründe berücksichtigt worden, aber nicht in der gleichen Reihenfolge.

Giftgas:

Die Anklageschrift behauptet in Ziffer 131: "Giftgas..., die die I.G. herstellte und an Dienststellen der SS lieferte, wurden... zur Ausrottung von versklavten Personen in Konzentrationslagern in ganz Europa verwendet." Zur Begründung dieser Behauptung hat die Anklagebehörde behauptet, dass Cyclon-B Gas in sehr erheblichen



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Mengen von der DEUTSCHEN GESELLSCHAFT FÜR SCHÄDLINGSBEKÄMPFUNG (DEGESCH), an der die I.G. mit 42,5% beteiligt war, in Konzentrationslager für Ausrottungszwecke geliefert worden ist, und dass die DEGESCH einen Verwaltungsrat oder Aufsichtsrat von elf Mitgliedern hatte, zu denen die Angeklagten Mann, Hoerlein und Wurster gehört haben. Die Frage, ob ein Zusammenhang dieser Angeklagten mit den Lieferungen besteht, bedarf daher genauerer Untersuchung.

Cyclon-B, das schon lange vor dem Kriege als Mittel zur Schädlingsbekämpfung in weitverbreiteter Benutzung stand, wurde von einem Dr. Walter Hoerdt erfunden, der vor dem erkennenden Gericht als Zeuge vernommen worden ist. Die Herstellungsrechte an Cyclon-B gehörten der DEUTSCHEN GOLD UND SILBERSCHNEIDANSTALT (DEGUSSA), aber die Herstellung selbst erfolgte für diese Firma durch zwei unabhängige Konzerne. Die DEGUSSA war ein Konkurrent der I.G. und der Th. GOLDSCHMIDT A.G. auf dem Gebiete der Herstellung und des Vertriebes von Mitteln zur Schädlingsbekämpfung. Die DEGUSSA hatte lange Zeit hindurch Cyclon-B durch die DEGESCH vertrieben, die vollständig von ihr kontrolliert wurde. Die DEGUSSA, Goldschmidt und die I.G. schlossen daher einen Vertrag mit der DEGESCH ab, in dem die DEGESCH zum Vertriebsorgan aller drei Gesellschaften für Mittel zur Schädlingsbekämpfung und verwandter Erzeugnisse bestimmt wurde. Wie bereits erwähnt, war die I.G. mit 42,5% an der DEGESCH beteiligt. Der Rest des Kapitals gehörte zu 42,5% der DEGUSSA und zu 15% GOLDSCHMIDT. Die Geschäftsführung der DEGESCH unterstand unmittelbar dem Dr. Gerhard Peters; die DEGESCH hatte aber einen Aufsichtsrat von 11 Mitgliedern, nämlich fünf vom Vorstand der I.G. (die Angeklagten Mann, Hoerlein und Wurster, ferner Bruggemann, gegen den das Verfahren abgetrennt worden ist, und Weber-Andreas, der verstorben ist), vier von der DEGUSSA, einer von GOLDSCHMIDT, und schließlich Dr. Hoerdt, der einer Tochtergesellschaft der DEGESCH angehörte. Der Angeklagte Mann war Vorsitzender des Aufsichtsrats. Ursprünglich war die DEGESCH als Verkaufsgesellschaft für die Erzeugnisse der Degussa gegründet worden. Auch nach dem Erwerb der Aktienpakete durch die I.G. und GOLDSCHMIDT behielt die DEGESCH ihre Geschäftsräume in Hause der DEGUSSA.

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Ihr Europäpersonal setzte sich aus Leuten der DEGUSSA zusammen und wurde nach dem bei der DEGUSSA üblichen Sätzen bezahlt.

Das Beweisergebnis rechtfertigt nicht den Schluss, dass der Aufsichtsrat oder die Angeklagten Mann, Hoerlein oder Würster als dessen Mitglieder bestehenden Einflüsse auf die Geschäftspolitik der DEGESCH oder strafrechtlich erhebliche Kenntnis von dem Verwendungszweck ihrer Erzeugnisse hatten. Aufsichtsratssitzungen fanden selten statt, und die Berichte, die den Aufsichtsratsmitgliedern zugehen, enthielten nicht viel sachliche Information. Daher scheint die Annahme gerechtfertigt, dass die Hauptaufgabe des Aufsichtsrats darin bestand, sich um die Kapitaleinlagen der Aktionäre zu kümmern und dass die Festlegung von Richtlinien für die Geschäftsführung im Wesentlichen Dr. Peters überlassen blieb und nur der allgemeinen Überwachung der mit ihm in ständiger Verbindung stehenden Vorstandsmitglieder der DEGUSSA unterlag.

Der Beweis dafür, dass grosse Mengen Cydon-S von der DEGESCH an die SS geliefert worden sind und dass das Gas bei der Massenausrottung der Insassen von Konzentrationslagern, unter anderem in Auschwitz, Verwendung gefunden hat, ist durchaus überzeugend. Aber weder das Ausmass der Erzeugung noch die Tatsache, dass grosse Mengen an Konzentrationslager versandt wurden, sind, für sich allein betrachtet, ausreichend für die Schlussfolgerung, dass die Personen, die von diesen Tatsachen Kenntnis hatten, sich um den verbrecherischen Zweck gekümmert haben müssen, den das Gas zugeführt wurde. Eine derartige Schlussfolgerung wird ausgeschlossen durch die allgemein bekannte Tatsache, dass überall da ein grosser Bedarf für Schuttlingsbekämpfungsmittel besteht, wo zahlreiche verschleppte und vertriebene Personen aus den verschiedensten Ländern und Gebieten auf engen Raum ohne ausreichende sanitäre Einrichtungen zusammengepfercht sind.

Die Aussage von Dr. Peters ist zur Frage der strafbaren Kenntnis der Angeklagten von grosser Bedeutung. Er hat die Einzelheiten einer Besprechung bekundet, die er im Sommer 1943 mit einem gewissen Gerstein hatte, mit dem ihn der Leiter des Gesundheitsamtes der beruchtigten Waffen-SS, Professor Mrugowsky, bekanntgemacht hatte. Gerstein verpflichtete Dr. Peters unter Androhung der Todesstrafe zu strengster Geheimhaltung und enthüllte dann das nationalsozialistische Ausrottungsprogramm,

das nach seiner Angabe von Hitler herrührte und von ~~Hitler~~ ausgeführt wurde. Es folgte dann eine lange Besprechung ueber die Wirksamkeit der verschiedenen Ausrottungsmethoden, und dabei wurde auch die Verwendung von Cyclon-B fuer diesen Zweck erortert. Dr. Peters hat entschieden betont, dass er in der Folgezeit besonders sorgfaeltig darauf bedacht gewesen sei, die Anweisung, die erwachte Besprechung als Staatsgeheimnis zu betrachten, genauestens zu befolgen; dadurch wird die Annahme ausgeschlossen, dass einer der Angeklagten Kenntnis von der bestimmungswidrigen Verwendung des Cyclon hatte.

Nach unserer Ueberzeugung reicht das Beweismaterial zu diesem Abschnitt des Anklagepunktes DREI zur Feststellung einer strafbaren Handlung der Angeklagten nicht aus.

Medizinische Experimente:

Im Anklagepunkt DREI, Unterabschnitt B, Ziffer 131 der Anklageschrift wird weiterhin die Beschuldigung erhoben, dass "...verschiedene toetliche pharmazeutische Produkte, die die I.G. herstellte und an Dienststellen der SS lieferte, fuer Experimente...an versklavten Personen in Konzentrationslagern in ganz Europa verwendet" worden seien. "Experimente an Menschen, darunter Insassen von Konzentrationslagern, sind ohne deren Zustimmung von der I.G. durchgefuehrt worden, um die Wirkung...von Giftstoffen und aehnlichen Erzeugnissen festzustellen."

Die Anklagebehoerde hat die Behauptung aufgestellt und die Feststellung beantragt, dass die Angeklagten Lautenschlager, Mann und Hoerlein an der Uebersendung von pharmazeutischen Erzeugnissen und Vaccinen an die SS zum Zwecke der Erprobung teilgenommen haben in Kenntnis des Umstandes, dass die Versuche im Wege medizinischer Experimente an Konzentrationslagerinsassen ohne deren Zustimmung vorgenommen worden wurden; ferner, dass jeder der erwachten Angeklagten von sich aus Schritte unternommen hat, um Erzeugnisse der I.G. durch die SS im Wege rechtswidriger medizinischer Versuche erproben zu lassen; schliesslich, dass diese rechtswidrigen medizinischen Versuche bei einer Anzahl von Personen koerperliche Schaedigungen oder den Tod zur Folge hatten.

Wie keiner ausfuehrlichen Begruendung bedarf, hat die Beweisaufnahme zur Ueberzeugung des Gerichts ergeben, dass

koerperlich gesunde Konzentrationslagerinsassen vornehmlich gegen ihren Willen mit Typhus infiziert und dass an ihnen Medikamente, die von der I.G. hergestellt und als Heilmittel zur Bekämpfung dieser Krankheit gedacht waren, in ego medizinischer Versuche ausprobiert worden sind, die den Tod zahlreicher Versuchspersonen zur Folge hatten. Dass derartige Handlungen strafbar sind und eine Verletzung des Völkerrechts darstellen, ist von dem Militärgericht I der Vereinigten Staaten in Falle der Vereinigten Staaten gegen Brandt und Genossen ueberzeugend dargelegt worden. Uns obliegt daher die Entscheidung der Frage, ob die Beweisaufnahme mit einer an Sicherheit grenzenden Wahrscheinlichkeit ergeben hat, dass die Angeklagten, wie es in der Anklageschrift heisst, "als Thäter, Gehilfen, Anstifter, Begünstiger bei der Begehung der erwaehnten Verbrechen mitgewirkt oder durch ihre Zustimmung an ihnen teilgenommen haben, oder ob sie mit Plänen und Unternehmen in Zusammenhang gestanden haben oder Mitglieder von Organisationen oder Gruppen, unter ihnen der I.G., gewesen sind, die mit der Begehung dieser Verbrechen in Verbindung standen".

Wir ersuchen aus dem Beweismaterial, dass Flecktyphus durch den Biss einer Läuse auf den Menschen uebertragen wird. Die Gefahr einer Epidemie dieser Krankheit besteht ueberall da, wo eine grosse Anzahl von Personen unter unguenstigen sanitären Bedingungen zusammengepfercht wird, wie sie haeufig an der Front und in Konzentrationslagern bestanden. Flecktyphus trat waehrend des Krieges zuerst an der Ostfront auf, und die zustaeendigen deutschen Beamten hatten die ernste Befuehrung, dass die Krankheit auf die Zivilbevoelkerung uebergreifen werde. Deshalb wurden verswaefelte Anstrengungen gemacht, ein Mittel zu finden, das die Krankheit heilen oder wenigstens Immunitaet geben koennte. Zu der Zeit, als dieses Problem dringend wurde, war die allgemein anerkannte Methode zur Herstellung eines wirksamen Impfstoffs zur Immunisierung gegen Flecktyphus das sogenannte Heigl-Verfahren. Dieser Impfstoff wurde aus den Eingeweiden der infizierten Laeuse hergestellt, und ein erfahrener Wissenschaftler konnte an einem Tage nur eine zur Behandlung von zehn Personen ausreichende Menge herstellen. Daher bestand ein dringendes Beduerfnis fuer eine Methode, die die Herstellung dieses Impfstoffes in bedeutend grosserem Maestabe ermoeglichte.

Schon vorher hatten die zur I.G. gehörenden Behring-Werke und andere Firmen jahrelang mit der Möglichkeit experimentiert, Flecktyphusbazillen in Hühnereiern zu züchten, und ein auf diesen Gedanken beruhendes Verfahren war entwickelt worden, nach dem ein fachlich geschulter Laboratoriums-assistent an einem einzigen Tage genügend Impfstoff zur Behandlung von 15.000 Personen herstellen konnte. Dieser Impfstoff war aber von der Ärzteschaft noch nicht in seiner Wirksamkeit erprobt und anerkannt, und die I.G. war auf dem allerersten darauf bedacht, eine solche Anerkennung für ihr Erzeugnis zu erhalten. Zu diesem Zweck hatte die I.G. an Besprechungen mit staatlichen Gesundheitsbehörden und drängte auf die Erprobung und Anerkennung ihres Erzeugnisses.

In Laufe der Jahre hatte die I.G. eine Methode zur Erprobung der Wirksamkeit ihrer pharmazeutischen Entdeckungen ausgearbeitet, die einigermaßen regelmäßig zur Anwendung kam, wenn die Medikamente über das Laboratoriumsstadium hinaus gegeben waren. Wenn angenommen wurde, dass ein neues Medikament wahrscheinlich medizinischen Wert haben würde und in seiner Anwendung unschädlich war, wurden Muster an die Fachärzte zur Erprobung an Kranken geschickt, die an der Krankheit litten, die das Mittel zu heilen bestimmt war. Diese Ärzte erstatteten dann ihrerseits genaue Berichte über ihre Erfahrung mit dem Medikament, und dann stellten die wissenschaftlichen Mitarbeiter der I.G. die Ergebnisse zusammen, prüften sie und entschieden sich dann, ob die Firma das betreffende Erzeugnis in ihr Herstellungsprogramm aufnehmen und auf den Markt bringen sollte. Dass dies das bei der I.G. allgemein übliche Verfahren war, bestreitet die Anklagebehörde nicht. Sie behauptet aber, dass die Erprobung sowohl des Impfstoffes der I.G. als auch des Acriidin, Rutenol und Methyleneblau als Mittel zur Bekämpfung des Flecktyphus unter Umständen stattgefunden hat, aus denen zu folgen sei, dass die Angeklagten Hoerlein, Lautenschlager und Mann genau wussten, dass Konzentrationslagerinsassen rechtswidrig von SS-Ärzten mit dem Flecktyphus-Bazillus in der Absicht infiziert wurden, Experimente mit diesen Erzeugnissen der I.G. durchzuführen.

Die Tatsachen und Umstände, auf die die Anklagebehörde

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sich hauptsächlich stützt, um den erwachten Angeklagten eine strafrechtlich erhebliche Kenntnis nachzuweisen, können folgendermassen zusammengefasst werden: (1) unstrittig sind verbrecherische Experimente von SS-Ärzten an Konzentrationslagerinsassen vorgenommen worden, (2) diese Experimente sind zu dem ausdrücklichen Zweck erfolgt, die Erzeugnisse der I.G. zu erproben, (3) manche dieser Experimente sind von Ärzten durchgeführt worden, die die I.G. mit der Aufgabe betraut hatte, die Wirksamkeit ihrer Medikamente zu erproben, (4) aus den von diesen Ärzten erstatteten Berichten konnte entnommen werden, dass rechtswidrige Experimente vorgenommen worden waren, (5) Medikamente sind von der I.G. unmittelbar an Konzentrationslager in solchen Mengen versandt worden, dass schon hieraus die Verwendung dieser Medikamente zu unlässigen Zwecken hätte gefolgert werden müssen.

Ohne in die Einzelheiten einzugehen, die uns zu einer Verneinung der Tatfrage veranlasst haben, sei hier gesagt, dass das Beweismaterial des Militärgericht nicht davon überzeugt hat, dass die genannten Angeklagten sich in diesem Punkt strafbar gemacht haben. Die Annahme, dass die Angeklagten mit den SS-Ärzten, die diese verbrecherischen Handlungen begingen, unter einer Decke gesteckt haben, wird durch die Tatsache widerlegt, dass die I.G. die Versendung der Medikamente an diese Ärzte eingestellt hat, sobald der Verdacht eines gesetzes- und standeswidrigen Verhaltens der Ärzte auftauchte.

Wir finden in den Umständen, unter denen die Impfstoffe durch die I.G. an Konzentrationslager versandt wurden, nichts, was zur Annahme eines Verschuldens führen könnte, weil berechtigterweise angenommen werden konnte, dass in diesen Lagern ein rechtmässiges Bedürfnis für diese Medikamente bestehe. Die Frage, ob aus den der I.G. erstatteten Berichten der Ärzte, die an den Versuchen beteiligt waren, tatsächlich entnommen werden kann, dass die erwachten Medikamente für rechtswidrige Zwecke benutzt wurden, hängt mit einem Streit über die richtige Übersetzung des deutschen Wortes "Versuch" zusammen, das sich in den Berichten und anderen hierher gehörigen Urkunden befindet. Die Anklagebehörde sagt, dass "Versuch" durch das englische Wort "experiment" übersetzt werden müsse und dass der Gebrauch dieses Wortes in den erwähnten Berichten die Angeklagten davon unterrichtete, dass die mit der Erprobung beauftragten Ärzte die Medikamente zu rechtswidrigen Eingriffen benutzten.

Demgegenüber behaupten die Angeklagten, dass "Versuch" in den Zusammenhänge, in dem dieses Wort gebraucht wird, gleichbedeutend mit dem englischen Wort "test" sei und dass die Erprobung von neuen Medikamenten an Kranken unter Beachtung der angenommenen Vorsichtsmassnahmen, die die I.G. anwandte, nicht nur erlaubt, sondern sogar zweckdienlich gewesen sei. Unter Anwendung der Regel, dass ueberall da, wo aus glaubhaften Beweismaterial zwei logische Folgerungen gezogen werden koennen, von denen die eine zur Annahme der Schuld und die andere zur Annahme der Unschuld fuehrt, die letztere Folgerung den Vorzug verdient, muessen wir zu dem Schluss kommen, dass die Anklagebehoerde in bezug auf diesen Teil der hier erorterten Beschuldigungen ihrer Beweispflicht nicht genuegt hat.

Die I.G. und das Sklavenarbeitsprogramm:

Die Anklagebehoerde behauptet nicht, dass die I.G. ein eigenes Arbeits-sklavenarbeitsprogramm eingefuehrt habe. Im Gegenteil, nach Ansicht der Anklagebehoerde haben die Angeklagten sich der I.G. und anderer Mittel bedient, um das Zwangsarbeitsprogramm des Dritten Reiches als richtig anzuerkennen, sich zu eignen zu machen und auszufuehren, und sind auf diese Weise unter Verletzung des Artikels II des Kontrollratsgesetzes Nr. 10 zu Teilnehmern an Kriegsverbrechen und Verbrechen gegen die Menschlichkeit geworden, an denen sie auch mitstimmend mitgewirkt haben. Aus diesem Grunde muss das Sklavenarbeitsprogramm der Reichsregierung waehrend der Kriegsjahre kurz dargestellt werden. Insoweit koennen wir auf das Urteil des IMG verweisen, da Artikel X der Verordnung Nr. 7 der Militaerregierung bestimmt, dass "die Feststellungen des International Militarytribunals in Urteil im Falle Nr. 1 Tatsachenbeweise darstellen, sofern kein neues, wesentliches Beweismaterial fuer das Gegenteil erbracht wird." Die Feststellungen des IMG zur Frage des verbrecherischen Charakters des Sklavenarbeitsprogramms des Dritten Reiches sind im vorliegenden Verfahren nicht angegriffen worden.

Aus dem Urteil des IMG kann entnommen werden, dass Deutschland Ende 1941 im Besitze der tatsaechlichen Herrschaft ueber Gebiete mit einer Gesamtbevoelkerung von 350 000 000 Menschen war. In den Anfangsstadien des Krieges hatte man sich bemueht, eine ausreichende Anzahl von auslaendischen Arbeit-

Demgegenüber behaupten die Angeklagten, dass "Versuch" in dem Zusammenhange, in dem dieses Wort gebraucht wird, gleichbedeutend mit dem englischen Wort "test" sei und dass die Erprobung von neuen Medikamenten an Kranken unter Beachtung der angenommenen Vorsichtsmaßnahmen, die die I.G. anwandte, nicht nur erlaubt, sondern sogar zweckdienlich gewesen sei. Unter Abwendung der Regel, dass ueberall da, wo aus glaubhaften Beweismaterial zwei logische Folgerungen gezogen werden koennen, von denen die eine zur Annahme der Schuld und die andere zur Annahme der Unschuld fuehrt, die letztere Folgerung den Vorzug verdient, muessen wir zu dem Schluss kommen, dass die Anklagebehoerde in bezug auf diesen Teil der hier erorterten Beschuldigungen ihrer Beweispflicht nicht genuegt hat.

Die I.G. und das Sklavenarbeitsprogramm:

Die Anklagebehoerde behauptet nicht, dass die I.G. ein eigenes Arbeitsklavenarbeitsprogramm eingefuehrt habe. Im Gegenteil, nach Ansicht der Anklagebehoerde haben die Angeklagten sich der I.G. und anderer Mittel bedient, um das Zwangsarbeitsprogramm des Dritten Reiches als richtig anzuerkennen, sich zu eignen zu machen und auszufuehren, und sind auf diese Weise unter Verletzung des Artikels II des Kontrollratsgesetzes Nr. 10 zu Teilhabern an Kriegsverbrechen und Verbrechen gegen die Menschlichkeit geworden, an denen sie auch zustimmend mitgewirkt haben. Aus diesem Grunde muss das Sklavenarbeitsprogramm der Reichsregierung waehrend der Kriegsjahre kurz dargestellt werden. Insoweit koennen wir auf das Urteil des IEG verweisen, da Artikel X der Verordnung Nr. 7 der Militaerregierung bestimmt, dass "die Feststellungen des International Military Tribunals im Urteil im Falle Nr. 1 Tatsachenbeweise darstellen, sofern kein neues, wesentliches Beweismaterial fuer das Gegenteil erbracht wird." Die Feststellungen des IEG zur Frage des verbrecherischen Charakters des Sklavenarbeitsprogramms des Dritten Reiches sind im voelufigenden Verfahren nicht angegriffen worden.

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als Freiwillige fuer die deutsche Industrie und Landwirtschaft zu erhalten, um die zum Militaerdienst Eingezogenen zu ersetzen, aber im Jahre 1940 konnten mit diesen Massnahmen nicht mehr genügend Arbeiter zur Aufrechterhaltung des fuer die Fortsetzung des Krieges erforderlichen Umfanges der Produktion beschafft werden. Darauf begann die zwangsweise Verschleppung von Arbeitern nach Deutschland, und am 21. Maers 1942 wurde Fritz Sauckel zum Generalbevollmaechtigten fuer den Arbeitseinsatz ernannt; seine Zustaeendigkeit umfasste "alle verfügbaren Arbeitskraefte, einschliesslich der im Auslande angeworbenen Arbeiter und der Kriegsgefangenen". Von da an wurde das nationalsozialistische Sklavonarbeitsprogramm mitleidslos, grausam und hartnaeckig durchgesetzt. Das RMG stellt fest, dass in den besetzten Gebieten "Menschenjagden in den Strassen, in Läden, ja sogar in Kirchen und bei Nacht in Privathäusern stattgefunden haben", um den staendig wachsenden Bedarf des Reiches an menschlichen Arbeitskraeften zu befriedigen. Wenigstens 5 000 000 Menschen sind zwangsweise aus den besetzten Gebieten nach Deutschland zur Foerderung des Kriegseinsatzes deportiert worden.

Das riesige Sammelbecken der von den Nationalsozialisten verwendeten Sklavonarbeiter enthielt unfreiwillige auslaendische Arbeiter, Konzentrationslagerinsassen und Kriegsgefangene. Viele dieser Leute wurden nicht nur allgemein in Industrie und Landwirtschaft, sondern auch in direkter Verletzung ausdruecklicher Bestimmungen des Voelkerrechts bei Arbeiten verwendet, die mit Kriegshandlungen gegen ihre Vaterlaender zusammenhingen. Das Programm, unter dem dieser allumfassende Plan ausgefuehrt und angewandt wurde, ergibt sich aus dem folgenden Zitat aus dem Urteil des RMG:

"Ein Erlass Sauckels vom 6. April 1942 ernannte die Gauleiter zu Generalbevollmaechtigten fuer den Arbeitseinsatz in ihren Gaue mit der Befugnis, alle Dienststellen, die sich in ihren Gaue mit Arbeitsfragen befassten, miteinander in Einklang zu bringen, und stattete sie ferner mit speziellen Vollmachten in Bezug auf die Beschaeftigung der auslaendischen Arbeiter einschliesslich der Arbeitsbedingungen, Ernaehrung und Unterbringung aus. Auf Grund dieser Machtvollkommenheit uebernahmen die Gauleiter die Kontrolle ueber die Arbeitsverteilung in ihren Gaue, einschliesslich der Zwangsarbeiter aus fremden Laendern. Bei der Erfuellung dieser Aufgabe bedienten sich die

Gauleiter vieler Parteidienststellen innerhalb ihrer Gaue einschliesslich untergeordneter Politischer Leiter." (S.291)

Am 20. April 1942 erliess Gauckel die nachstehenden Anweisungen fuer die Behandlung der Arbeiter:

"Alle diese Menschen muessen so ernachrt, untergebracht und behandelt werden, dass sie bei denkbar sparsamem Einsatz die grossstmoglichste Leistung hervorbringen." (S.275)

In Verlauf des Krieges mussten die Hauptbetriebe der I.G., genau so wie die deutsche Industrie im allgemeinen, eine grosse Anzahl ihrer Arbeiter auf Grund der Forderungen der Wehrmacht zum Dienst bei der Truppe abgeben. Unter der Last der Verantwortung fuer die Erfuellung der festgesetzten Fertigungsziele hat die I.G. der Druck des Reichsarbeitsamtes nachgegeben und auslaendische Zwangsarbeiter in vielen ihrer Betriebe beschaeftigt. Hier genuegt die Feststellung, dass die Verwendung von Zwangsarbeitern, wenn sie nicht unter Umstaenden erfolgt, die den Arbeitgeber von eigener Verantwortung entbinden, eine Verletzung des Teiles des Artikels II des Kontrollratsgesetzes Nr. 10 darstellt, der die Versklavung, Verschleppung oder Entziehung der Freiheit von Zivilpersonen anderer Laender als Kriegsverbrechen und Verbrechen gegen die Menschlichkeit unter Strafe stellt.

Die vorstehenden Ausfuehrungen ueber die Verwendung von auslaendischen Zwangsarbeitern gelten auch fuer Kriegsgefangene und Insassen von Konzentrationslagern.

Notstand als Entschuldigungsgrund:

Die hier vor Gericht stehenden Angeklagten haben sich zur Entschuldigung auf Notstand berufen. Sie machen geltend, dass die Verwendung von Sklavenarbeitern in Werken der I.G. das zwangslaeufige Ergebnis der ihnen von Regierungsstellen auferlegten Fertigungsziele auf der einen Seite und den ebenso zwingenden Massnahmen auf der anderen Seite war, denen zufolge sie Sklavenarbeiter verwenden mussten, um die verlangten Fertigungsziffern zu erreichen. Zahlreiche Verordnungen, Erlasse und Anweisungen der Arbeitsamter sind dem Militärgericht vorgelegt worden, aus denen sich ergibt, dass diese Dienststellen die diktatorische Kontrolle ueber den Einsatz, die Zuteilung

und die Ueberwachung aller verfügbaren Arbeitskräfte im Reich uebernommen hatten; strenge Vorschriften regelten fast jede Einzelheit der Beziehungen zwischen Arbeitgebern und Arbeitnehmern. Der Industrie war verboten, ohne Genehmigung des Arbeitsamtes Arbeitskräfte einzustellen oder zu entlassen. Schwere Strafen, darunter Ueberstellung in ein Konzentrationslager und sogar Todesstrafe waren fuer die Verletzung dieser Bestimmungen angedroht. Die an der Verwendung von Sklavenarbeitern beteiligten Angeklagten haben ausgesagt, sie haetten unter einem so ueberwältigenden Druck und Zwang gestanden, dass nicht davon die Rede sein koenne, dass sie mit dem Vorsatz gehandelt haetten, dessen Vorhandensein ein unentbehrliches Tatbestandsmerkmal jeden Straftat ist.

Dass die strengen Bestimmungen der Reichsdienststellen fuer den Arbeitseinsatz bestanden haben, muss zugegeben werden; deswegen muss untersucht werden, ob und welche Moeglichkeiten die Angeklagten hatten, diese Bestimmung zu umgehen, und welche Folgen es gehabt haette, falls sie den Versuch hierzu gemacht haetten. Wir entnehmen die Tatsachen wiederum dem Urteil des ILC. Einige wenige der dort getroffenen Feststellungen genuegen fuer unseren Zweck. Wir zitieren die folgenden kurzen Auszuege aus diesem Urteil:

"Nach diesem Fuhrerprinzip der NSDAP) hat jeder Fuehrer das Recht, zu regieren, zu verwalten oder Befehle zu erlassen, unter Ausschaltung jeder irgendwie gearteten Kontrolle und vollstaendig nach eigenen Ermessen, einzig und allein durch die etwaigen Befehle beschaenkt, die er von seinen Vorgesetzten erhaelt.

...

(Der Reichstagsbrand vom 28. Februar 1933)... wurde von Hitler und seiner Regierung als Vorwand dazu benutzt, die verfassungsmassigen Grundrechte ausser Kraft zu setzen.

...

"...eine Reihe von Gesetzen und Verordnungen wurde erlassen, die die Befugnisse der Laender- und Ortsbehoerden in ganz Deutschland einschaenkte und sie in Unterabteilungen der Reichsregierung verwandelt

...

"...die gesamte Justiz wurde einer Kontrolle unterworfen.... Die SS nahm aus politischen Gruenden Verhaftungen vor und hielt die Verhafteten in Gefaengnissen und Konzentrationslagern fest. Die Richter hatten keine Macht, in irgendeiner Weise einzugreifen.

...

"Ein unabhängiges, auf Gedankenfreiheit beruhendes Urteil wurde ... zur völligen Unmöglichkeit." (Seite 202)

...

"Deutschland hatte die Diktatur mit allen ihren Herrschaftsmethoden, ihrer synischen und offenen Missachtung allen Rechts, angenommen." (Seite 201)

...

"Feindselige Kritik, ja, Kritik jeder Art, wurde verboten, und die schwersten Strafen wurden denen auferlegt, die sich dieser Botenpflicht hingaben." (Seite 202)

...

"Bei dieser Gelegenheit wurde eine grosse Anzahl von Leuten ungebracht, die sich zu irgendeinem Zeitpunkt Hitler widersetzt hatten." (Seite 200)

Gegenüber diesen unbestreitbaren, von der höchsten Autorität festgestellten Tatsachen kann das erkennende Gericht nicht feststellen, dass die Angeklagten die Unwahrheit gesagt haben, wenn sie versicherten, dass ihnen keine andere Wahl geblieben sei, als in allen Angelegenheiten des Sklavenarbeitsprogramms in Einklang mit den Befehlen der Regierung Hitlers zu handeln. Es kann kaum einen Zweifel unterliegen, dass die Weigerung eines leitenden Angestellten der I.G., die vom Reich festgesetzten Produktionsprogramme zu erfüllen oder fuer die Erfüllung Sklavenarbeiter zu verwenden, eine Herausforderung bedeutet hatte, die als hochverräterische Sabotage behandelt worden wäre und sofort harte Vergeltungsmaßnahmen in Gefolge gehabt hätte. Es ist sogar glaubhaft bewiesen, dass Hitler die Gelegenheit, an einer führenden Persönlichkeit der I.G. ein Beispiel zu statuieren, freudig begrüsst hatte.

Es ist noch zu prüfen, ob der Entschuldigungsgrund des Notstandes in einem Falle der vorliegenden Art zulässig ist. Das ILG hat sich mit einer Seite des Problems beschäftigt, ^{u.zw.} bei der Prüfung der Auswirkungen des Artikels 8 des Statuts, der bestimmt:

"Die Tatsache, dass ein Angeklagter auf Befehl seiner Regierung oder eines Vorgesetzten gehandelt hat, gilt nicht als Strafausschliessungsgrund, kann aber als Strafmilderungsgrund berücksichtigt werden" (Seite 12)

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Zu dieser Bestimmung hat das IMG ausgeführt:

"Dass ein Soldat den Befehl erhalten hat, unter Verletzung des Völkerrechts zu toten oder zu martern, ist niemals als ein Entschuldigungsgrund für solche Handlungen der Brutalität anerkannt worden, wenn sich, wie es das Statut hier vorsieht, ein solcher Befehl als Milderungsgrund bei der Bestrafung beruecksichtigt werden kann. Das wirklich entscheidende Moment, das sich in verschiedenen Abstufungen im Strafrecht der meisten Nationen findet, ist nicht das Bestehen eines solchen Befehls, sondern die Frage, ob eine dem Sittengesetz entsprechende Wahl tatsächlich möglich war." (Unterstreichungen durch das erkennende Gericht.)

Mit diesen Worten hat das IMG anerkannt, dass ein solcher Befehl von einem Vorgesetzten oder von der Regierung zwar nicht an sich schon eine Rechtfertigung für die Verletzung eines völkerrechtlichen Grundsatzes darstellt (wenn der Befehl auch als Milderungsgrund beruecksichtigt werden kann), dass er aber dann als Verteidigung durchgreift, wenn er unter Umständen gegeben ist, die den Befehlsempfänger keine andere dem

Sittengesetz entsprechende Wahl liessen als zu gehorchen. Bei der Anwendung der Worte "eine dem Sittengesetz entsprechende Wahl" auf den hier vorliegenden Tatbestand kann kaum ein Zweifel an ihrer Bedeutung bestehen. Die aus dem Urteil des IMG zitierten Stellen, die sich mit den Zuständen in Deutschland während der nationalsozialistischen Ära beschäftigen, scheinen uns eine für den vorliegenden Fall ausreichende Antwort zu geben. Wir besitzen auch überzeugende Präzedenzentscheidungen für die richtige Anwendung der Regeln über den Notstand auf dem Gebiete der Rechtssetzungen, nach denen wir hier zu urteilen haben.

Der Fall der Vereinigten Staaten gegen Flick und Genossen (Fall 5), der vom Tribunal IV abgeurteilt worden ist, betraf die bedeutendste Persönlichkeit der deutschen Stahl- und Kohlenindustrie und fünf seiner Mitarbeiter. Ihnen war unter anderem zur Last gelegt, sich tätig an dem Sklavenarbeitsprogramm des Dritten Reiches beteiligt zu haben. In dem Urteil des Militärgerichts wird der Tatbestand untersucht und der Schluss gezogen, dass vier der Angeklagten sich mit Erfolg auf Notstand berufen konnten. Wir zitieren aus diesem Urteil, weil der dortige Tatbestand eine auffallende Ähnlichkeit mit den im vorliegenden Verfahren festgestellten Tatsachen aufweist, die folgenden Stellen:

"Das auf diesen Anklagepunkt bezügliche Beweisverfahren hat eindeutig ergeben, dass die unter den gesetzlichen Bestimmungen des Reichs beschaeftigten Arbeitskraefte, darunter freiwillige und unfreiwillige auslaendische Zivilarbeiter, Kriegsgefangene und Konzentrationslagerhaeftlinge, in einigen Betrieben des Flick'schen Konzerns eingesetzt waren ... Ferner geht daraus hervor, dass in einigen Flick-Unternehmungen Kriegsgefangene mit Arbeiten beschaeftigt waren, die in direktem Zusammenhang mit kriegemaechigen Operationen stehen.

"Das Beweismaterial laesst erkennen, dass die Angeklagten selbst in den Faellen, in denen dieses Programm ihre eigenen Betriebe betraf, keine tatsaechliche Kontrolle ueber diese Durchfuehrung besaessen; das Beweismaterial zeigt in Gegenteil, dass dieses von Staete dargestellte geschaffene Programm auch von Staete in allen Einzelheiten geregelt und streng kontrolliert wurde und dass diese Kontrolle sich sogar auf die Kriegsgefangenenlager und Arbeitslager fuer Konzentrationslagerhaeftlinge erstreckte, welche in der Naechte der Betriebe errichtet und aufrechterhalten wurden, denen derartige Kriegsgefangene und Konzentrationslagerhaeftlinge zugeteilt worden waren. Diese Kriegsgefangenenlager unterstanden der Wehrmacht, waehrend die Arbeitslager fuer Konzentrationslagerhaeftlinge der Kontrolle und Aufsicht der SS unterstanden. Die Lager der auslaendischen Zivilarbeiter wurden von Lagermaechen beaufsichtigt, die von der Betriebsleitung bestellt wurden, wobei diese Bestellung von der Genehmigung der staatlichen Polizeibehoerde abhaengig war. Es ist bewiesen worden, dass die hier in Frage kommenden Betriebsleiter die Kriegsgefangenenlager oder KZ-Arbeitslager, die mit ihren Betrieben in Verbindung standen, nicht ohne weiteres besuchen durften, sondern dass die Besuche Genehmigung im Ermessen der Lageraufsichtsbehoerden stund."

.....

"Arbeitskraefte wurden den Betrieben, welche sie benoetigten, durch die Arbeitsamter der Regierung zugewiesen. Keine Betriebsleitung war in der Lage, einer solchen Zuweisung Widerstand entgegenzusetzen. Das Fortigungsoll fuer die gesamte Industrie wurde von den Reichsbehoerden festgelegt, und ohne Arbeitskraefte koennte dieses Soll nicht erreicht werden. Betriebe, deren Leistung unter dem Fortigungsoll blieb, hatten Strafen zu gewaertigen. Die Mitteilung seitens der Betriebsleitung, dass Arbeitskraefte benoetigt wurden, hatte die Zuweisung von Arbeitskraeften an diesen Betrieb seitens der Regierungsbehoerde zur Folge. Dies war der einzige Weg, auf dem Arbeitskraefte beschafft werden konnten."

.....

"In einer derartigen Zwangslage haben sich die Angeklagten diesem Programm trotz der Bedenken, die einige von ihnen darueber offenbar hatten, gefuegt, und die Folge war, dass auslaendische Arbeiter, Kriegsgefangene oder Konzentrationslagerhaeftlinge in einigen Betrieben des Flick-Konzerns und der dazugehoerig beschaeftigt wurden. Was die schriftlichen Berichte und andere Schriftstuecke betrifft, die von Zeit zu Zeit von den Angeklagten in Verbindung mit dem Einsatz von auslaendischen Sklavenarbeitern und Kriegsgefangenen in ihren Betrieben unterzeichnet oder abgezeichnet

wurden, so handelt es sich in den meisten Fällen um eine unvermeidliche Erfüllung strenger und harter Reichsgesetze, die sich auf die Durchführung des Programms bezogen."

.....

"Die Angeklagten lebten im Reichsgebiet. Das Reich war durch seine Massen von Vollzugsbeamten und Gestapo "allgegenwärtig", jederzeit einsatzbereit und in der Lage, unverzüglich grausame Strafen gegen jedermann zu verhängen, der etwas tat, das als Sabotage oder Behinderung der Ausführung von Regierungsbestimmungen oder Erlassen hatte ausgelegt werden können."

.....

"In vorliegendem Falle ergibt sich aus den Zeugenaussagen unserer Ansicht nach eine tatsächliche Lage, die eindeutig die Annahme der Schutzbehauptung des Notstands gestattet, die namens der Angeklagten STEINERHINCK, BURKERT, KALTSCH und TIEBERGER vorgebracht worden ist."

.....

Das Militärgericht IV hat jedoch zwei Angeklagte (WEISS und FLICK) gemäss der Anklage der Verwendung von Sklavenarbeit verurteilt. Die Verurteilung beruht darauf, dass WEISS mit Kenntnis und Billigung von FLICK um eine Erhöhung der Quote fuer Guterwagenherzeugung der Firma ueber die von der Regierung festgesetzten Fertigungsziele hinaus nachgesucht hat, und darauf, dass Weiss von sich aus Schritte unternommen hat, um russische Kriegsgefangene zum Einsatz bei der Herstellung der erhöhten Produktionsquoten zuteilt zu erhalten. In diesen Fällen, so sagt das Militärgericht, haben Weiss und Flick sich selbst die Berufung auf Notstand abgeschnitten und gibt hierfuer die folgende Begründung:

"Der Kriegseinsatz erfordert von allen mit ihm in Verbindung stehenden Personen den Einsatz aller ihrer Fähigkeiten dafuer, dass die Kriegsfertigung auf ihre maximale Kapazität gesteigert werde. Die zu diesem Zweck unternommenen Massnahmen rührten jedoch nicht von Regierungskreisen, sondern von der Betriebsleitung her. Sie erfolgten nicht unter dem Zwang oder aus Furcht, sondern eingeständnismässig zu dem Zweck, die Leistung des Betriebes so weit als möglich bis an die Kapazitätsgrenze zu schrauben."

Ihr haben ferner das Urteil des Tribunal Général der Militärregierung der französischen Besatzungszone in Deutschland vom 30. Juni 1948 geprüft, durch das Hermann Buechling wegen Teilnahme am Sklavenarbeitsprogramm verurteilt worden ist.

In diesem Urteil wird ausgeführt, dass Roehling "in den Jahren 1936 und 1937 an mehreren geheimen Besprechungen mit Goering teilgenommen" und im Jahre 1940 "die Stellung eines Generalbevollmächtigten fuer die Stahlbetriebe in den Departements Moselle und Neurthe-Moselle Sud angenommen hat", fernerhin, dass er "aus seiner Stellung als Industrieller herausgewachsen ist, hohe Verwaltungsposten und leitende Stellungen in der Stahlverarbeitung verlangt hat" und dann "Diktator fuer Eisen und Stahl in Deutschland und den besetzten Gebieten" geworden ist; dass Roehling ferner "im Jahre 1943 die nationalsozialistische Regierung mit Anregungen ueberschuettet hat, die Einwohner der besetzten Gebiete zum Einsatz bei Kriegsarbeiten heranzuziehen" dass er "den nationalsozialistischen Fuehrern in Berlin eine Denkschrift uebersandt hat, in der er verlangte, dass die belgische Arbeiterschaft zur Entwicklung der deutschen Industrie nutzbar gemacht werde, und in diesen Zusammenhange gefordert hat, dass "junge Leute im Alter von 18 bis 25 Jahren zur Dienstpflicht unter deutschen Befehl eingezogen werden sollten - was bedeuten wuerde, dass ungefaehr 200 000 Personen eingesetzt werden koennten"; ^{er} dass/fernerhin "verlangt hat, dass "unverzueglich Verhandlungen begonnen werden sollten, um eine betraechtliche Anzahl russischer junger Burschen im Alter von ungefaehr 16 Jahren zur Arbeit in der Eisenindustrie heranzuziehen"; dass er "die allgemeine Registrierung von frankoesischen, belgischen und hollaendischen jungen Leuten verlangt hat, um sie zur Arbeit in Kriegsbetrieben zu zwingen oder zur Wehrmacht einzuziehen, und gleichzeitig den Erlass eines Gesetzes angetroffen hat, durch das die arbeitspflicht in den besetzten Gebieten eingefuehrt werden sollte"; dass er weiterhin "die Reichsbehoerden in der hinterlistigsten Weise zum Einsatz der Bewohner des besetzten Gebietes und der Kriegsgefangenen bei Ruestungsarbeiten angestiftet hat, und zwar unter voelliger Missachtung der Menschenwuerde und der Bestimmungen der Haager Konventionen." Zwei Angeklagte sind von dem frankoesischen Gerichtshof freigesprochen, zwei andere verurteilt worden. Die letzteren - von Gemmingen und Rodenhauser - sind verurteilt worden als Miturheber und Teilnehmer bei der oben beschriebenen rechtswidrigen Beschaeftigung von Kriegsgefangenen und Verschleppten durch Hermann Roehling, sowie als Teilnehmer an der

von ROECHLING gewährten Deckung und Förderung gesetzwidriger Bestrafungen, die über die erwähnten Zwangsarbeiter verhängt wurden. Die erwähnten gesetzwidrigen Strafen wurden durch ein Standgericht verhängt, das von Geringen und Bodenhäuser in Einverständnis mit der Gestapo in Roechling-Betrieb eingesetzt hatten, in dem sie beide Direktorstellen bekleideten. Es ist damit klar erwiesen, dass diese beiden Angeklagten sich nicht mit Aussicht auf Erfolg auf Notstand berufen konnten. In Bezug auf die freigesprochenen Angeklagten, Ernst ROECHLING und Albert LAYR, hat der hohe Gerichtshof ausdrücklich festgestellt, dass die Beweisaufnahme nicht ergeben hat, dass sie von sich aus Massnahmen zum Zwecke des Einsatzes von Sklavenarbeitern ergriffen hatten.

Es ist daher klar, dass Hermann ROECHLING, VOE GELINGEL und BODENHAUSER ebenso wie WEISS und FLICK, nicht durch die Unmöglichkeit, eine dem Sittengesetz entsprechende Wahl zu treffen, zu ihrem Verhalten gestungen worden sind, sondern dass sie im Gegenteil die Gelegenheit voll ausgenutzt haben, alle möglichen Vorteile aus dem Sklavenarbeiterprogramm zu ziehen. Es kann sogar gesagt werden, dass sie in sehr erheblichen Masse für den Ausbau dieses verabscheuungswürdigen Systems verantwortlich gewesen sind.

Auf Grund unserer Prüfung der in der Urteile des IIG, sowie in den Fällen FLICK und ROECHLING enthaltenen Feststellungen kommen wir zu der Schlussfolgerung, dass der Befehl eines Vorgesetzten oder das Bestehen eines Gesetzes oder Regierungserlassen die Entschuldigung des Notstands nur dann rechtfertigt, wenn den von solchen Befehlen oder Gesetzen oder Erlassen Betroffenen keine dem Sittengesetz entsprechende Wahl des einzuschlagenden Weges verblieb. Daraus folgt, dass die Entschuldigung des Notstands nicht durchgreift, wenn derjenige, der sie für sich in Anspruch nimmt, selbst für das Bestehen oder die Ausführung solcher Befehle oder Erlasse verantwortlich gewesen ist, oder wenn seine Beteiligung das von diesen Anordnungen geforderte Mass überstiegen hat oder auf eigenes Betreiben erfolgt ist.

Auschwitz und Forstengrube:

Schon im Jahre 1938 wurde die Errichtung eines Betriebes für die Erzeugung von Baux in Osten Deutschlands zwischen der MEER und dem Reichswirtschaftsministerium besprochen.

Ein Gelände in Oberschlesien und ein anderes im nördlichen Teil des Sudetenlandes kamen in Betracht. Späterhin, zu der Zeit als das Baugelände in Auschwitz gewählt wurde, ist auch Norwegen erwogen worden.

Bei einer Konferenz im Reichswirtschaftsministerium am 6. Februar 1941 wurde die Planung eines Ausbaues der Buna-Erzeugung besprochen. Ambros und einer der Meer waren anwesend. Es wurde berichtet, dass bei früheren, am 2. November 1940 abgehaltenen Sitzung das Reichswirtschaftsministerium einen solchen Ausbau gebilligt habe, und die I.G. wurde angewiesen, in Schlesien ein geeignetes Gelände fuer eine vierte Buna-Fabrik auszuwählen. Es ist klargestellt, dass auf Grund dieser Anordnung und der Empfehlung des Angeklagten Ambros das Gelände in Auschwitz ausgewählt worden ist.

Man schätzte, dass die neue Buna-Fabrik eine Kapazität von 30 000 Jahrestonnen haben würde. Es wurde geplant, die Buna-Fabrik mit einer neuen, auf demselben Gelände zu errichtenden Fabrik fuer die Erzeugung von Brennstoffen zu verbinden, wobei die Buna-Erzeugung den Vorrang haben sollte. Eine Reihe verschiedener Erwägungen waren bei der Auswahl von Auschwitz massgebend; dazu gehoerten seine ideale, vor Luftangriffen von Westen geschuetzte topographische Lage, die leichte Zugänglichkeit wichtiger Rohstoffe, das reichliche Vorhandensein von Kohle und Wasser und die zur Verfuegung stehenden Arbeitskraefte. Die zukuenftige Arbeiterbeschaffung war durch zwei Faktoren bedingt: die verhaeltnismässig dichte Bevoelkerung des Gebietes und das nahe gelegene Konzentrationslager Auschwitz, von dem man Zwangsarbeiter erhalten konnte. Die Beweisaufnahme hat unvereinbare Widersprueche in Bezug auf die Frage ergeben, inwieweit das Bestehen des Konzentrationslagers bei der Entscheidung ueber die Baustelle von Bedeutung gewesen ist. Wir sind nach einer gruendlichen Guerdigung des Beweismaterials zu der Ueberzeugung gekommen, dass das Bestehen des Lagers ein wichtiger, wenn auch vielleicht nicht der entscheidende Faktor bei der Auswahl der Baustelle gewesen ist, und dass von Anfang an der Plan bestanden hat, die Deckung des Arbeiterbedarfs mit Konzentrationslagerhaeftlingen zu ergaenzen.

Die Vertreter der I.G., die fuer die Errichtung des Auschwitzer Betriebes in erster Linie unmittelbar verantwortlich waren, sind AMBROS, BUETEFISCH und DUERRFELD.

AMEROS war der technische Sachverständige fuer die Buna-Erzeugung. Er war Mitglied des Planungsausschusses, an dessen Sitzungen er regelmässig teilnahm. BUEHFISCH war der Sachverständige fuer die Brennstoffherzeugung und bearbeitete die Planung und Errichtung der Brennstoff-Fabrik. Sein Hauptquartier war in Iena, einem Werk der I.G., das in der Hauptsache fuer die wichtige Brennstoffherzeugung arbeitete. Nach seiner eigenen Aussage hat er Auschwitz ungefähr zweimal jährlich besucht und sich ueber den Fortschritt des Bauprojektes unterrichtet. Er hat die Baustelle und die verschiedenen Fabrikhallen besichtigt und die Konzentrationslagerhäftlinge bei der Arbeit beobachtet. Im Winter 1941/1942 hat er in Begleitung von ungefähr 30 anderen Persönlichkeiten in hohen Stellungen unter denen sich Dr. AMEROS befand, das Hauptkonzentrationslager in Auschwitz besucht. Bei diesem Besuch sind ihm keine Misshandlungen von Häftlingen aufgefallen, und er war der Meinung, dass das Lager gut geführt sei. Er hat niemals das Arbeitslager bei Konowitz besichtigt. Der Angeklagte DUERRFELD fuhrte in seiner Eigenschaft als Chefingenieur und spaeterhin als Bauleiter in Auschwitz die allgemeine Oberaufsicht ueber die Arbeit. Zahlreiche Zeugen haben bestaetigt, dass er bei verschiedenen Gelegenheiten auf der Baustelle anwesend war. Er machte haeufige Besichtigungsreisen, waehrend derer er die Leute bei der Arbeit beobachtete. Er stattete auch den nahegelegenen Arbeitslager in Konowitz einen Besuch ab, das unter der Oberaufsicht der SS stand.

DUERRFELD berichtete, dass HOESS, der Kommandant des Konzentrationslagers, gerne bereit sei, die Bauleitung mit allen ihm zur Verfuegung stehenden Mitteln zu unterstuetzen, und fuer das Jahr 1941 ungefähr 1000 ungelernete Arbeiter zur Verfuegung stellen werde. In Jahre 1942 koenne diese Zahl auf 3,000 oder 4,000 erhoecht werden. Die I.G. sollte den Plan durch die Errichtung von Baracken und Bereitstellung von Holz und gewisser Mengen von Eisen unterstuetzen. Die Häftlinge sollten in Gruppen von ungefähr 20 Mann unter der Oberaufsicht von Kapos eingesetzt werden.

Am 4. März 1941 wurde von der Berliner Dienststelle des Bevollmaechtigten fuer den Vierjahres-Plan ein Rundschreiben versandt, das an AMEROS gerichtet war und gewisse Informationen ueber Auschwitz enthielt. In diesem Brief ist erwachnt, dass der Inspekteur der Konzentrationslager

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und der Leiter des Wirtschafts- und Verwaltungs-Hauptamtes den Befehl erhalten hatten, sich mit dem Bauleiter der Buna-Fabrik in Verbindung zu setzen und das Bauprojekt durch den Einsatz von Konzentrationslager-Häftlingen zu unterstützen. Der Chef von Himmlers persönlichen Stab, Gruppenführer WOLF, sollte zum Verbindungsoffizier zwischen der SS und den Auschwitz-Jerken ernannt werden. „Beschriften dieses Briefes wurden an Ter HEER, BUSTEFISCH und DUERRFELD verteilt. Kurz darauf hatten DUERRFELD und BUSTEFISCH mit WOLF eine Besprechung in Berlin, bei der der Einsatz von Konzentrationslager-Häftlingen besprochen wurde. Die Teilnehmer waren im allgemeinen über den Einsatz von Konzentrationslager-Häftlingen zur Unterstützung des Projekts einig. WOLF machte keine bestimmten Versprechungen; die Einzelheiten sollten durch Verhandlungen zwischen DUERRFELD und HOESS, dem Kommandanten des Konzentrationslagers Auschwitz geregelt werden.

Die erste Baubesprechung über das Auschwitz-Bauprojekt fand am 24. März 1941 in Ludwigshafen statt. 9 Personen waren anwesend. Es waren Beamte und Ingenieure der I.G. Die beiden einzigen Teilnehmer, die in diesem Verfahren unter Anklage stehen, sind AMERLIS und DUERRFELD. In dieser Sitzung wurde beschlossen, die Baubesprechungen zunächst allwöchentlich abzuhalten. Der Zweck der Besprechungen war, den einzelnen Konferenzteilnehmern Arbeitsgebiete zuzuweisen und auf diese Weise ein Überschneiden ihrer Tätigkeit zu vermeiden. Die Teilnehmer an den Besprechungen erstatteten über die Fortschritte auf ihren Arbeitsgebieten Bericht. AMERLIS berichtete, dass die allgemeine Planung des Auschwitz-Betriebes gegenwärtig von den Ingenieuren SINTO, DUERRFELD und MACH ausgearbeitet werde. DUERRFELD berichtete über eine Besprechung mit WOLF vom Stabe des Reichsführers SS und sagte, er habe von dieser Dienststelle das Versprechen erhalten, dass 700 Häftlinge des Konzentrationslagers Auschwitz als ungelernete Arbeiter zum Einsatz auf der Baustelle zur Verfügung gestellt werden würden, und dass der Versuch gemacht werde, einen Austausch von Häftlingen mit anderen Konzentrationslagern vorzunehmen und Facharbeiter nach Auschwitz zu verlegen.

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Alle freien Arbeitskraefte in Auschwitz sollten ebenfalls eingesetzt werden.

Am 7. April 1941 fand eine Zusammenkunft in Kattowitz statt, bei der die Gruendung des Auschwitzer Betriebes gefeiert wurde. Reichsbeamte vom Amt fuer Industrieplanung und vom Amt fuer Wirtschaftsplanung scheinen die Sitzung geleitet zu haben. Sie ersuchten um Vorlegung von Bauplaenen und Berichten ueber Auschwitz. Ambros war anwesend und gab Informationen ueber die Buna-Fabrik. Buettfisch, der das Gebiet der Kraftstoffherzeugung einschliesslich der Benzinproduktion in Auschwitz bearbeitete, gab bekannt, dass die Fuerstengrube Kohle fuer Auschwitz liefern werde. In dem Bericht heisst es dann: "Fuer die Bauzeit ist eine weitgehende Unterstuetzung durch das KZ-Lager Auschwitz auf Grund eines Befehles des Reichsfuehrers SS in Auschwitz in Aussicht gestellt. Der Lagerkommandant, Sturmbannfuehrer Hoess, hat bereits die Vorbereitungen fuer den Einsatz seiner Kraefte getroffen. Das KZ-Lager stellt Haeftlinge fuer die Aufbauarbeiten, Handwerker fuer Schreiner- und Schlosserarbeiten, unterstuetzt das Werk in der Verpflegung der Baubegleitung und wird die Belieferung der Baustelle mit Kies und sonstigen Baumaterialien durchfuehren."

Der Bau des Auschwitzer Betriebes wurde im Jahre 1941 begonnen. Die juedische Bevoelkerung des Gebietes wurde evakuiert, ebenso wie viele ansaessige Polen. Ihre Hauser wurden zur Unterbringung von Bauarbeitern verwendet. Die I.G. fuehrte die Bauarbeiten nicht selbst aus, sondern vergab Auftraege an Baufirmen. In Fragen der Arbeiterbeschaffung jedoch wandten sich die Firmen an die I.G. um Hilfe. Die I.G. war fuer die Beschaffung von Arbeitern verantwortlich. Freie Arbeiter standen nicht in genugender Anzahl zur Verfuegung, um die Anforderungen der Baufirmen zu decken.

Bei einer am 23. Oktober 1941 abgehaltenen Sitzung des Ausschusses fuer Werkstoffe und Gummi, der Ter Meer und Ambros beiwohnten, berichtete der Schriftfuehrer des Ausschusses ueber den Stand der Bauarbeiten in Auschwitz. Ueber den Arbeitseinsatz sagte er das folgende: "Gegenwaertig sind auf der Baustelle 2700 Mann taetig."

Wertvoll ist die Unterstützung durch das Konzentrationslager Auschwitz, das 1.300 Mann und seine gesamten Werkstätten zur Verfügung gestellt hat."

Ende 1941 war der Fortschritt der Bauarbeiten in Auschwitz nicht zufriedenstellend. Bei der 14. Baubesprechung, die am 16. November 1941 stattfand, wurden die auf der Baustelle vorhandenen Ingeenieure erörtert. Unter anderem wurde berichtet, dass das Konzentrationslager nicht die erwartete Unterstützung geben könne, da der Befehl ergangen sei, so schnell wie möglich Unterkünfte für 120.000 gefangene Russen zu errichten. Die Möglichkeiten anderer Quellen für die Beschaffung von Arbeitskräften wurden in Betracht gezogen. Bei diesen Erwägungen scheint man weder an fremde Zwangsarbeiter noch an Kriegsgefangene gedacht zu haben.

In dem Bericht über die 19. Baubesprechung vom 30. Juni 1942 wird zum ersten Mal erwähnt, dass neben den Konzentrationslager-Häftlingen auch andere Zwangsarbeiter verwendet wurden. Dort heißt es, dass 500 polnische Zwangsarbeiter erst kürzlich eingesetzt worden seien, und dass man deshalb noch nicht sagen könne, ob ihre Leistung zufriedenstellend sei oder nicht. In dem Bericht wird auch gesagt, dass die Frauen aus der Ukraine für Erdarbeiten gut brauchbar seien; man kann aber aus dem Bericht nicht erkennen, ob diese Arbeiterinnen Freiwillige waren oder nicht. Bei der am 8. November 1942 abgehaltenen 20. Baubesprechung waren JEROS, DIERFFELD und BUEFFISCH anwesend. DIERFFELD berichtete, dass auf Grund des zu erwartenden starken Anstiegs des Arbeiterbedarfs die Arbeiterbeschaffung weiterhin vor schwere Aufgaben gestellt sein werde, und dass gewisse Hilfsquellen für die Beschaffung von Arbeitskräften zur Verfügung ständen; eine von diesen bestehende in der Anwerbung von Polen, eine Massnahme, durch die 1.000 Arbeiter beschafft werden könnten. 2.000 russische Arbeiter sollten auf Befehl von S.UCKEL nach Auschwitz geschickt werden, es lagen jedoch noch keine bestimmten Zusagen vor. Diese Erklärung scheint darauf hinzudeuten, dass die Bauleitung Auschwitz diese Arbeiter angefordert hatte. In dem Bericht heißt es auch, dass S.UCKEL 5.000 Kriegsgefangene für die Baustellen in Oberschlesien versprochen habe, und dass 2.000 von ihnen für Auschwitz bereitgestellt seien, während die übrigen an andere Firmen überwiesen werden sollten.

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Berichte ueber spaetere Baubesprechungen ergeben, dass Zwangsarbeiter und Kriegsgefangene weiterhin bei den Bauarbeiten in Auschwitz verwendet wurden. Auschwitz war Eigentum der I.G. und wurde von dieser Gesellschaft finanziert. Zwar war der Zweck dieses Projektes die Erzeugung von Buna und Kraftstoffen, die der deutschen Wehrmacht unmittelbar zugute kommen wurden, aber die Fabrik wurde mit der Absicht eines dauernden Betriebes errichtet, und es war geplant, sie schliesslich im Frieden fuer den zivilen Bedarf arbeiten zu lassen. Die Verwendung von Kriegsgefangenen bei solchen Bauarbeiten, wie sie in diesen Berichten beschrieben sind, verstoesst nach unserer Auffassung nicht gegen die Bestimmungen der Genfer Konvention; nur insoweit, als ihre Behandlung nicht im Einklang mit den Bestimmungen des Voelkerrechts gestanden haben sollte, ist ihre Verwendung nach unserer Meinung als Straftat anzusehen. Die Kriegsgefangenen sind in jeder Hinsicht besser als die anderen Arbeiterklassen behandelt worden. Ihre Unterbringung, ihr Essen und die Art der Arbeit, die von ihnen verlangt wurde, scheinen darauf hinzudeuten, dass sie die am meisten beguenuigten Arbeiter auf der Baustelle waren. Einzelfaelle von Miss-handlungen moegen vorgekommen sein, aber sie koennen nicht auf allgemeine von der I.G. festgelegte Richtlinien oder auf Handlungen zurueckgefuehrt werden, die den Angeklagten mittelbar oder unmittelbar zur Last gelegt werden koennen. Nach unserer Auffassung ist deshalb eine weitere Erwaertung der Verwendung von Kriegsgefangenen in Auschwitz unnoetig.

Die von dem Konzentrationslager zur Verfuegung gestellten Bauarbeiter waren Gefangene der SS. Sie wurden von der SS untergebracht, ernaeht, bewahrt und standen in jeder Hinsicht unter der Befehlsgewalt der SS. Im Sommer 1942 wurde die Baustelle eingezaeunt. Den SS Wachen wurde danach nicht mehr erlaubt, die eingezaeunte Flaechen zu betreten, aber sie hatten weiterhin die Aufsicht ueber die Gefangenen immer dann, wenn diese nicht tatsaechlich auf der eingezaeunten Baustelle beschaeftigt waren. Das Konzentrationslager Auschwitz war ungefaehr 7 km von der Baustelle entfernt. Die Gefangenen legten den Hin- und Rueckmarsch unter SS Bewachung zurueck.

In Winter 1941/1942 hatten die Lagerarbeiter unter furchtbaren Unbilden zu leiden. Infolge der unzureichenden Ernährung und Bekleidung war eine grosse Anzahl von ihnen den schweren Anstrengungen der Bauarbeit nicht gewachsen. Viele von denen, die zu krank oder zu schwach zur Arbeit waren, wurden von der SS nach Birkenau überführt und dort ⁱⁿ den Gaskammern liquidiert.

In Jahre 1942 wurde auf die Veranlassung der I.G. neben und gegenüber der Baustelle ein besonderes Arbeitslager namens Monowitz errichtet. Dieses Lager war als solches in seiner Einrichtung etwas besser als das Konzentrationslager Auschwitz. Immerhin verblieben die Arbeiter weiterhin während all der Stunden, in denen sie nicht auf der Baustelle beschäftigt waren, unter dem Befehl und der Oberraufsicht der SS. Die Arbeitsunfähigen oder diejenigen, die sich der Disziplin nicht unterwarfen, wurden in das Konzentrationslager Auschwitz zurückgeschickt oder, was weit öfter der Fall war, nach Birkenau, um in den dortigen Gaskammern liquidiert zu werden. Selbst in Monowitz waren die Unterquartiere zu gewissen Zeiten unzureichend, um die grosse Zahl der in den barackenartigen Gebäuden zusammengedrängten Arbeiter angemessen unterzubringen. Die Ernährung war ungenügend, und das gleiche galt für die Bekleidung, besonders im Winter.

Fälle von menschenunwürdiger Behandlung kamen auch auf der Baustelle vor. Hin und wieder wurden die Arbeiter von Wertschutz und den Verarbeitern geschlagen, die die Gefangenen während der Arbeitszeit zu beaufsichtigen hatten. Manchmal kam es vor, dass Arbeiter zusammenbrachen. Zweifellos war ihre Unterernährung und die durch lange und schwere Arbeitsstunden hervorgerufene Erschöpfung der Hauptgrund für diese Vorfälle. Gerüchte über die Aussendungen aus der Zahl der Arbeitsunfähigen für den Gaster liefen um. Es steht ausser Zweifel, dass die Furcht vor diesem Schicksal viele Arbeiter und insbesondere Juden dazu gebracht hat, die Arbeit bis zur völligen Erschöpfung fortzusetzen. Im Lager Monowitz unterhielt die SS ein Krankenhaus und einen Sanitätsdienst. Darüber, ob dieser Sanitätsdienst ausreichend war oder nicht, finden sich im Beweismaterial starke Widersprüche. Ob die Behauptungen der einen oder der anderen Seite mehr Glauben verdienen, kann dahingestellt bleiben;

es steht jedenfalls fest, dass viele Arbeiter nicht gewagt haben, sich in ärztliche Behandlung zu begeben, weil sie fürchteten, dass sie dann von der SS nach Birkenau gebracht werden würden. Die von dem Konzentrationslager Auschwitz zur Verfügung gestellten Arbeiter lebten und arbeiteten unter dem Schatten der Liquidierung.

Die Verteidigung hat nicht ganz ohne Grund betont, dass die Konzentrationslager-Häftlinge unter dem Befehl der SS gelebt und unter der unmittelbaren Aufsicht und Leitung der mit der Ausschachtung der Baustelle und des Bau des Betriebes beauftragten Firmen (es waren mindestens 200) gearbeitet hatten. Es ist klar erwiesen, dass die I.G. eine menschenunwürdige Behandlung der Arbeiter nicht beabsichtigt oder vorsätzlich geordert hat. Tatsächlich hat die I.G. sogar Schritte unternommen, um die Lage der Arbeiter zu erleichtern. Freiwillig und auf eigene Kosten hat die I.G. den Arbeitern auf der Baustelle eine heisse Mittagsuppe verabreicht. Diese war ein Zusatz zu den üblichen Rationen. Auch die Bekleidung ist durch Sonderlieferungen der I.G. organisiert worden. Aber nichtsdessenminder sind die an dem Auschwitz-Bauvorhaben am nächsten beteiligten Angeklagten offensichtlich für die Arbeiter in hohem Masse verantwortlich gewesen. Sie haben die Arbeiter von den Reichsstellen für Arbeitseinsatz angefordert. Sie haben die ihnen zugewiesenen Konzentrationslagerhäftlinge angenommen, und sie dann den für die I.G. arbeitenden Baufirmen zur Verfügung gestellt. Die festumrissene Aufgabe des Chef-Ingenieurs DUERRFELD bestand darin, mit Hilfe von anderen Angeklagten das Bauvorhaben allgemein zu überwachen; er hatte die Befehlsgewalt bei den Bauarbeiten. Diesen Leuten fällt die Verantwortung für die auf ihr eigenes Betreiben durchgeführte rechtswidrige Beschäftigung zur Last, und sie müssen, mindestens bis zu einem gewissen Grade, ^{die} Verantwortung für die schlechte Behandlung der Arbeiter mit der SS und den beauftragten Baufirmen teilen.

Die Konzentrationslagerinsassen waren durchaus nicht die einzigen auf den Baugelände beschäftigten Arbeiter. Freie Arbeiter wurden in grosser Zahl beschäftigt.

Im Jahre 1941 erschienen Fremdarbeiter in Auschwitz. Anfangs waren viele, wenn auch nicht alle Arbeiter Freiwillige, das heisst, sie waren Fremde, die sich verpflichtet hatten, gegen festgesetzte Löhne in Deutschland zu arbeiten. Es waren hauptsächlich Polen, Ukrainer, Italiener, Slaven, Franzosen und Belgier. Einige Sachverständige und Techniker waren unter denselben Bedingungen angeworben worden. Nachdem Sauckels Zwangsarbeiterprogramm in Kraft getreten war, kamen mehr und mehr Arbeiter dieser Art nach Auschwitz. Die Angeklagten sahen geltend, dass die Anwerbung der Arbeiter unmittelbar vom Reich geleitet worden sei, und dass sie deshalb ueber die Umstände der Anwerbung nicht unterrichtet gewesen seien; da die Fremdarbeiter sich anfangs freiwillig verpflichtet hatten, hatten die Angeklagten nicht gewusst, dass später andere Massnahmen eingeführt und dass viele der dann angeworbenen Arbeiter unter einem System der erzwungenen Einziehung zur Arbeit beschafft wurden. Diese Behauptung kann nicht aufrecht erhalten werden. Die Arbeitskräfte für Auschwitz wurden von den staatlichen Arbeitsämtern auf Antrag der I.G. beschafft. Zwangsarbeiter wurden während einer Zeitdauer von ungefähr 3 Jahren verwendet, nämlich von 1942 bis zum Ende des Krieges. Zweifellos hat die I.G. keine besondere Vorliebe fuer die Verwendung von Konzentrationslager-Knechtlingen oder von Ausländern gehabt, die gegen ihren Willen zum Arbeitsdienst in Deutschland gezwungen worden waren. Auf der anderen Seite ist es ebenso sicher, dass die I.G. sich mit der fuer sie von den staatlichen Arbeitsämtern geschaffenen Lage abgefunden und, wenn weder Deutsche noch ausländische freie Arbeiter zur Verfügung standen, zu der Einstellung und Verwendung von Leuten Zuflucht nahen, die ihr von Konzentrationslager Auschwitz und durch Sauckels Zwangsarbeiterprogramm zugewiesen wurden.

In engem Zusammenhang mit Auschwitz stand ein Plan, der eine Kontrolle der Kohlenförderung in gewissen Kohlenruben durch die I.G. zum Ziele hatte. Bei einer am Jahrestag der Gründung abgehaltenen Sitzung berichtete der Angeklagte BUEYERFISCH, dass eine neue Gesellschaft ins Leben gerufen worden sei, um die Kohlenförderung der Puerstengrube fuer den Betrieb Auschwitz zu erwerben.

In dieser neuen Gesellschaft kontrollierte die I.G. 51% des Aktienkapitals und war somit in der Lage, ueber die Verwendung der Föderung der Grube zu bestimmen. Späterhin erwarb die I.G. durch dieselbe Gesellschaft eine Majoritätsbeteiligung an einem anderen Bergwerk namens Janina. DUSTEFISCH wurde Vorsitzter des Aufsichtsrates der neuen Gesellschaft, die den Namen Fuerstengrube G.m.b.H. trug. In dieser Eigenschaft organisierte er als Sachverständiger fuer Brennstoffe den Organisationsplan fuer Auschwitz. Er und der Angeklagte JEBENS spielten bei dem im Jahre 1942 erfolgten Erwerb der Majorität an der Janina-Grube eine wichtige Rolle. Diese Gruben waren fuer die Pläne der I.G. von Bedeutung, da die Absicht bestand, ihre Foerderung fuer die Benzinerzeugung aus Kohle zu verwenden, die in der Brennstoff-Fabrik in Auschwitz durchgefuehrt werden sollte.

Aus den uns vorliegenden Akten ergibt sich, dass im Jahre 1943 polnische Arbeiter von der Fuerstengrube fuer Grubenarbeiten verwendet worden sind. Dies war lange nach der Eroberung Polens und nach der Einziehung von polnischen Staatsbürgern zum Arbeitseinsatz in Deutschland. Auch britische Kriegsgefangene wurden von der Fuerstengrube verwendet, besonders in der Janina-Grube. Diese Gefangenen setzten ihren Arbeitsherren erheblichen Widerstand entgegen mit dem Ergebnis, dass sie gegen Ende 1943 von der Arbeit in den Bergwerken zurueckgezogen wurden. Sie wurden durch Konzentrationslager-Haeftlinge ersetzt. Wie sich aus einer Aktennotiz ergibt, beauftragten HOESS und DUERRFELD am 16. Juni 1943 die Bergwerke der Janina und Fuerstengrube. Bei dieser Gelegenheit wurde vereinbart, dass die britischen Kriegsgefangenen durch Konzentrationslager-Haeftlinge ersetzt werden sollten. Die SS schätzte, dass in Janina, wo vorher 150 britische Kriegsgefangene Unterkunft gefunden hatten, 300 Konzentrationslager-Haeftlinge untergebracht werden koennten. In Betrieb Fuerstengrube sollten 600 Haeftlinge untergebracht, und mit der Umzaunung des Lagers sollte sofort begonnen werden. Ausserdem sollte noch ein weiteres Lager uebernommen werden, und man schätzte, dass man in Ganzen 1200 oder 1300 Haeftlinge bei der Fuerstengrube G.m.b.H. werde einsetzen koennen.

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Die Geschichte des Werkes Auschwitz und der Fuhrsterngrube ergibt, dass beides vollkommen private Unternehmen waren, die von der I.G. betrieben wurden und zwar in einer Weise, die den dort tatigen Organen der I.G. weitgehende Handlungsfreiheit und Selbstenheit fuer eigene Initiative gab. Die Beweisaufnahme hat nicht ergeben, dass die Auswahl des Gelandes in Auschwitz und die Errichtung der Buna- und Bronnstoff-Fabrik auf diesem Gelande unter Zwang erfolgte, wenn sie auch von den Reichsbehorden begünstigt wurde, die die Inbetriebnahme einer vierten Buna-Fabrik dringend wunschten. Das Baugelände ist ausgewählt worden, nachdem eine ganze Anzahl von Faktoren untersucht werden war, darunter auch die Verwendungsmöglichkeit von Arbeitern aus Konzentrationslagern fuer die Bearbeiten. Die ausschlaggebende Beteiligung an der Fuhrsterngrube und an den Janina-Bergwerken, die als Nebenbetriebe fuer Auschwitz dienen sollten, ist unter Umstaenden erworben worden, aus denen die Kenntnis der Tatsache gefolgert werden muss, dass die Schachte durch freiwillige Arbeitskraefte nicht mit Erfolg betrieben werden konnten. Zwangsarbeiter sind verwendet worden: zuerst Polen und Kriegsgefangene, und spaeter Konzentrationslager-Haeftlinge. In der Verwendung von Kriegsgefangenen in Zohlenbergwerken unter den Bedingungen und in der Art und Weise, wie sie sich aus den Akten ergeben, erblicken wir eine Verletzung der Bestimmungen der Genfer Konvention und demgemasse ein Kriegsverbrechen. Die Verwendung von Konzentrationslager Haeftlingen und auslaendischen Zwangsarbeitern in Auschwitz stellt, wenn man beruecksichtigt, dass die leitenden Beamten der I.G. aus eigenen Antrieb Massnahmen zur Beschaffung und Verwendung dieser Arbeitskraefte getroffen haben, ein Verbrechen gegen die Menschlichkeit dar und gleichzeitig, sofern es sich um Angehoerige fremder Staeten handelt, auch ein Kriegsverbrechen, und insoweit greift die Berufung auf einen angeblich durch das Sklavenarbeiterprogramm des Reiches geschaffenen Notstand nicht durch. Es ist ferner erwiesen, dass die Verwendung der Konzentrationslager Haeftlinge in Kenntnis der schlechten, ja unmenschlichen Behandlung erfolgt ist, die den Haeftlingen durch die SS zuteil wurde, und dass die Arbeit auf dem Baugelände in Auschwitz das bedauernswerte Schicksal dieser ungluecklichen Haeftlinge noch verschlimmert und zu ihrer verzweifelten Lage beigetragen hat.

Die Prüfung der Faelle Auschwitz und Fuerstengrube hat uns von der direkten strafrechtlichen Verantwortlichkeit der Angeklagten DUERRFELD, JEBROS und BUZEFISCH ueberzeugt. Somit eruebrigt sich eine weitere Erdoertung des Falles dieser drei Angeklagten in diesem Zusammenhang, da die Handlungen fuer die sie die Verantwortung tragen, ihre Strafbarkeit unter Anklagepunkt DREI zur Ueberzeugung des Gerichts beweisen. Diese Angeklagten sind nicht die einzigen, die bei dem Auschwitz Projekt mitgewirkt haben. Inwiefern die anderen beteiligt waren, wird bei der Erdoertung der Mitwirkung jedes einzelnen Angeklagten erdoertert werden.

KRAUCH:

Wir fahren nunmehr mit der Untersuchung der Verantwortlichkeit der einzelnen Angeklagten fort. Wir sehen, dass KRAUCH in seiner Eigenschaft als Generalbevollmaechtigtter fuer Sonderfragen der Chemischen Produktion mit der Verteilung der von Sauckel fuer den chemischen Sektor zur Verfuegung gestellten Arbeitskraefte betraut war. KRAUCHs Aufgabe war es, die von den einzelnen Betrieben der chemischen Industrie eingereichten Antraege auf Anweisung von Arbeitern zu ueberpruefen; hierbei hatte er die Ansprache, die die Militaerpflicht an die Betriebe gestellt hatte, ebenso zu beruecksichtigen wie den Arbeiterbedarf, der auf Betriebsvermehrungen beruhte. Wir sind der Auffassung, dass KRAUCH am Einsatz von Arbeitskraeften in Auschwitz so weitgehend beteiligt gewesen ist, dass seine Mitwirkung ihm unmoeglich in Unkenntnis darueber gelassen haben kann, dass Konzentrationslager-Haeftlinge und auslaendische Zwangsarbeiter bei dem Auschwitzer Bauprojekt verwendet wurden. Am 25. Februar 1941 berief sich KRAUCH in einem Brief an JEBROS auf den von Goering erlassenen Befehl und die dort betonte Notwendigkeit der beschleunigten Durchfuehrung des Projektes und teilte JEBROS mit, dass Auschwitz bei der Arbeiterbeschaffung den Vorrang haben sollte. Spaeterhin hat KRAUCH selbst die Baustelle besucht.

Am 7. Januar 1943 sprach KRAUCH in einem Brief an DUERRFELD seine Anerkennung aus fuer die Errichtung der Anlage in Pootitz, die DUERRFELD als KRAUCHs Beauftragter durchgefuehrt hatte. In Anschluss hieran wies er Duerrfeld an, weiterhin als sein Beauftragter fuer die Errichtung des gesamten Auschwitzer Betriebes zu fungieren und sagte: "Ich moechte Ihnen versichern, dass Sie bei der Ausfuehrung dieser Aufgabe meiner persoenlichen Unterstuetzung in jeder Weise gewiss sein koennen,

Die Prüfung der Paele Aschwitz und Puerstengrube hat uns von der direkten strafrechtlichen Verantwortlichkeit der Angeklagten DUERRFELD, MIEROS und BUSTEFISCH überzeugt. Somit erübrigt sich eine weitere Erörterung des Falles dieser drei Angeklagten in diesem Zusammenhang, da die Handlungen fuer die sie die Verantwortung tragen, ihre Strafbarkeit unter Anklagepunkt DREI zur Ueberzeugung des Gerichts bewiesen. Diese Angeklagten sind nicht die einzigen, die bei dem Aschwitz Projekt mitgewirkt haben. Inwiefern die anderen beteiligt waren, wird bei der Erörterung der Mitwirkung jedes einzelnen Angeklagten erörtert werden.

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Am 7. Januar 1943 sprach KRAUCH in einem Brief an DUERRFELD seine Anerkennung aus fuer die Errichtung der Anlage in Poolitz, die DUERRFELD als KRAUCHs Beauftragter durchgefuehrt hatte. Im Anschluss hieran wies er Duerrfeld an, weiterhin als sein Beauftragter fuer die Errichtung des gesamten Aschwitz Betriebes zu fungieren und sagte: "Ich moechte Ihnen versichern, dass Sie bei der Ausfuehrung dieser Aufgabe meiner personlichen Unterstuetzung in jeder Weise gewiss sein koennen."

Wie aus dem Protokoll der Sitzung der Zentralen Planung vom 2. Juli 1943, bei der KRAUCH als Mitglied dieses Gremiums anwesend war, zu sehen ist, gab AMEROS bei dieser Gelegenheit einen Überblick über die im Werk Buols der I.G. anscheinend durch Bombenangriffe der Alliierten verursachten Schäden und erörterte die Frage der fuer den Wiederaufbau benötigten Arbeitskräfte, die in Wege der von dem Reich erlassenen Dienstverpflichtung beschafft werden sollten. Die Zentrale Planung versprach AMEROS, seinen Anträgen in dieser Hinsicht zu entsprechen. Bei der Sitzung wurde ferner die Arbeiterfrage in Auschwitz und der erhöhte Bedarf an Arbeitern, auch solcher aus dem Konzentrationslager, besprochen. Aus der Niederschrift ergibt sich, dass beschlossen wurde, den letztgenannten Antrag sofort dem Reichsführer HIMMLER zu unterbreiten.

Am 13. Januar 1944 richtete KRAUCH einen Brief an den Präsidenten ERBEL von der Zentralen Planung, in dem er den Arbeitseinsatz erörterte. Anscheinend hatte es in der Vergangenheit irgend ein Missverständnis zwischen KRAUCHs Dienststelle und dem Rüstungsamt gegeben. KRAUCH vertrat seinen Standpunkt in folgender Weise:

"Auf der anderen Seite darf ich darauf hinweisen, dass die eigenen Bemühungen meiner Dienststelle z.B. um die Beschaffung ausländischer Arbeitskräfte - in dem von GBA ~~zuer~~ fuer der Initiative des einzelnen Bedarftägers freigelassenen Rahmen - und um den Einsatz von geschlossenen Formationen (Kriegsgefangene, Ex-Häftlinge, Justizstrafgefangene, militärische Baukompanien etc.) fuer das Tempo des Ausbaues der chemischen Erzeugung und fuer die Produktion von nicht zu unterschätzender Bedeutung waren. Diese Initiative meiner Mitarbeiter bei der Beschaffung von Arbeitskräften, die sich in der Vergangenheit gut bewährt hat, darf z.B. auch in Zukunft nicht geknast werden."

KRAUCH bestritt energisch, dass er sich an der Beschaffung von Sklavenarbeitern beteiligt habe. Seine Agenten, so sagt er, hatten sich vor der Einführung des SAUCKEL-Programms mit der Anwerbung freiwilliger Arbeiter befasst. Einige dieser Agenten hatten auch sporadisch noch eine Zeitlang versucht, Facharbeiter zu beschaffen.

Ob und in welchem Umfange diese Facharbeiter zur Auswanderung nach Deutschland gezwungen worden sind, ist nicht erwiesen. Das Ergebnis der Beweisaufnahme hat uns nicht davon überzeugt, dass KRAUCH als Anstifter oder als Mittäter bei den Anfangsstadien der Versklavung von Arbeitern beteiligt war, die sich im Auslande abspielten. Er hat jedoch, und zwar nach unserer Überzeugung wissenschaftlich, an Einsatz von Zwangsarbeitern in Auschwitz und an anderen Orten teilgenommen, wo derartige Arbeiter in chemischen Betrieben beschäftigt wurden. Die Beweisaufnahme hat jedoch nicht ergeben, dass er Kenntnis von der Misshandlung von Arbeitern auf ihren Arbeitsplätzen hatte oder an solchen Misshandlungen teilnahm. Wenn man bedenkt, in welchem Umfange er die Einzelheiten über die Beschaffung von Zwangsarbeitern gekannt haben muss, und wenn man seine freiwillige Beteiligung bei der Verteilung und Zuteilung dieser Arbeiter in Betracht zieht, dann führt das zu dem zwingenden Schluss, dass diese seine Tätigkeit als freiwillige Teilnahme an den Verbrechen der Versklavung zu werten ist.

Die Verwendung von Kriegsgefangenen bei Kriegshandlungen und bei Arbeiten, die in unmittelbarem Zusammenhang mit Kriegshandlungen stehen, war durch die Genfer Konvention verboten. In Punkt DREI werden die Angeklagten der Verletzung dieses Verbots beschuldigt. Der Versuch einer allgemeingültigen Begriffsbestimmung oder Erklärung des Ausdrucks "unmittelbarer Zusammenhang mit Kriegshandlungen" würde uns auf ein Gebiet führen, das - wie die Schriftsteller und Fachgelehrten des Völkerrechts wissen - voller Streitfragen ist. Wir beschränken daher unsere Ausführungen auf die Tatsachen, die sich aus unseren Akten ergeben.

Am 31. Oktober 1941 erliess der damalige Chef des Oberkommandos der deutschen Wehrmacht Keitel einen Geheimbefehl über "die Verwendung von Kriegsgefangenen in der Kriegsindustrie", in dem es hiess, dass der Führer angeordnet habe, die Arbeitskraft der russischen Kriegsgefangenen weitgehend zur Erfüllung der Bedürfnisse der Kriegsindustrie auszunutzen. In dem Befehl werden Beispiele für die Art der Arbeiten gegeben, für die Kriegsgefangene brauchbar sein konnten; dort sind auch Bauarbeiten für die Wehrmacht und für die Rüstungsindustrie aufgeführt. Andere wichtige Arbeitsgebiete, die dort aufgezählt sind, waren

Rüstungsfabriken, Bergbau, Eisenbahnbau, Land- und Forstwirtschaft. In Verteiler dieses Befehls erscheinen weder KRAUCH noch sein unmittelbarer Vorgesetzter, Oberst Loeb. Die Tatsache, dass KRAUCH die Verwendungsmöglichkeiten von russischen Kriegsgefangenen in der Rüstungsindustrie günstig beurteilt hat, wird durch einen Brief eines seiner Untergebenen, Kirschner, klargestellt. Dieser schrieb am 20. Oktober 1941 an General Thomas, den Leiter des Wehrwirtschafts- und Rüstungsamts, dass er die Angelegenheit mit KRAUCH durchgesprochen habe. Er berichtete, dass KRAUCH einen Plan für die Verwendung von russischen Kriegsgefangenen entwickelt habe, und fügte Notizen über KRAUCHs Absichten seinen Brief bei. Der Inhalt dieser Notizen ist uns nicht bekannt geworden, wir sind aber trotzdem davon überzeugt, dass KRAUCH mit der Verwendung von Kriegsgefangenen in der Rüstungsindustrie einverstanden gewesen ist. Dieser Umstand allein genügt aber nicht zu seiner Verurteilung unter Anklagepunkt DREI wegen der Begehung von Kriegsverbrechen. Keitels Befehl enthält keine Ermächtigung für den Generalbevollmächtigten für Sonderfragen der Chemischen Produktion zum Einsatz von Kriegsgefangenen bei den verschiedenen Werken und Industriezweigen. Zuständig hierfür war das Reichsministerium für Bewaffnung und Munition in Einvernehmen mit dem Reichsarbeitsministerium und dem Oberbefehlshaber der Wehrmacht. Die Vertreter des Reichsministeriums für Bewaffnung und Munition wurden ermächtigt, die Kriegsgefangenenlager zu besuchen, um an der Auswahl der Facharbeiter mitzuwirken. Die Akten ergeben nicht, dass KRAUCH in auch nur einem einzigen Falle Kriegsgefangene zu Arbeiten eingesetzt hat, die unter das Verbot der Genfer Konvention fielen. Nach alledem kommen wir zu der Entscheidung, dass KRAUCH wegen seiner Tätigkeit bei dem Einsatz von Konzentrationslagerhäftlingen und ausländischen Fremdarbeitern sich im Sinne des Anklagepunktes DREI schuldig gemacht hat.

Tor MEER:

Der Angeklagte Tor MEER hatte in seiner Eigenschaft als Technischer Leiter der I.G. und zugleich als Leiter der Sparte II und Vorsitzender

des Technischen Ausschusses die allgemeine Oberleitung in Angelegenheiten der Fertigung und der Neuerrichtung von Anlagen. Er hat die Erweiterung der Buna-Produktion mehrfach mit dem Reichswirtschaftsministerium besprochen. Am 2. November 1940 bewilligte das Ministerium die Erweiterung und wies Tor MEER und AMEROS als Vertreter der I.G. an, ein für die Errichtung der Fabrik geeignetes Gelände in Schlesien zu suchen. Tor MEER war der unmittelbare Vorgesetzte von AMEROS, und dieser hat in zahlreichen Fällen seinem Vorgesetzten Bericht erstattet. Tor MEER hat erklärt: "Ich glaube, dass der grösste Teil der Information, die ich über die Errichtung der Fabrik in Auschwitz hatte, aus dem Schriftwechsel oder den Unterhaltungen stammt, die ich mit AMEROS hatte, und AMEROS hat mir in sehr langen Besprechungen alle die Dinge gezeigt, die ich als gute industrielle Bedingungen bezeichne. Ich weiss, dass er mir eine Landkarte gebracht und alles gezeigt hat, er hat aber nach meiner Erinnerung nicht besonders auf das Vorhandensein des Konzentrationslagers hingewiesen. AMEROS selbst entwickelte im Technischen Ausschuss anhand einer Karte des auschwitzischen Geländes seine Ansichten über die allgemeinen Bedingungen, die Grösse und auch die Art, in der die Fabrik erbaut werden sollte. Ich erinnere mich nicht, dass er bei dieser Gelegenheit erwähnt hat, dass ein Teil der Belegschaft aus dem nahe gelegenen Konzentrationslager entnommen werden sollte; ich mochte aber sagen, dass AMEROS, der in seinen Berichten dieser Art sehr genau war, diesen Punkt wahrscheinlich erwähnt hat, ich bin aber nicht sicher."

Dass das Konzentrationslager bei den ersten, Auschwitz betreffenden Plänen eine Rolle gespielt hat, ergibt sich aus den Urkunden, die in dem allgemeinen Teil unserer Erörterung dieses Vorhabens erwähnt sind. Es liegen noch weitere Urkunden und Berichte ähnlichen Inhalts vor. Zum Beispiel wurde am 16. Januar 1941 bei einer Besprechung, die in Ludwigshafen zwischen Vertretern der I.G. und der Schlesien-Benzin in Anwesenheit von Ambros stattfand, von einem Direktor der letztgenannten Firma ein Bericht über die Vorteile des auschwitzischen Geländes erstattet. Es wurde gesagt, dass die Einwohnerschaft von Auschwitz aus 3000 Deutschen, 4000 Juden und 7000 Polen bestehe. Die Juden und Polen sollten vertrieben werden, sodass in der Stadt

genuegend Raum fuer die Belegschaft der Fabrik vorhanden sein werde. Dann heit es in der Niederschrift: "In der naechsten Umgebung von Auschwitz wird ein Konzentrationslager fuer die Juden und Polen errichtet werden."

Bei einer pertlichen Planbesprechung am 31. Januar 1941, an der der Chef-Ingenieur SAUTO vom Werk Ludwigshafen, spaeater Mitglied des Planungsausschusses Auschwitz, teilnahm, wurden die Fragen der Arbeiterbeschaffung fuer Auschwitz erneut besprochen; es heit in der Niederschrift: "Das bereits bestehende, mit ungefaehr 7000 Haef tlingen besetzte Konzentrationslager soll erweitert werden, Einsatz von Haef tlingen fuer das Bauvorhaben ist moeglich nach Verhandlungen mit dem Reichsfuehrer SS."

Wir haben bar ite die Sitzung des Ausschusses fuer Werkstoffe und Grund von 23. Oktober 1941 erwaeht, an der Ter MEIER und A. HEROS teilnahmen und in der die wertvolle Unterstuetzung erwaeht wird, die das Konzentrationslager Auschwitz gewaeht hatte.

Ter MEIER selbst hat das Gelände in Auschwitz im Oktober 1941 besucht. Bei seiner Besichtigung wurde er von dem Lagerkommandanten HUESS begleitet. Er erklaeert: "HUESS war keineswegs fuer die Entsendung von Konzentrationslagerhaef tlingen nach dem Werk Auschwitz. Er wollte, dass sie fuer die in Lager selbst befindliche Fabrik arbeiten sollten."

Im November 1942 hat Ter MEIER das Gelände in Auschwitz wiederum besucht und bei dieser Gelegenheit auch das Lager Monowitz besucht, in dem die auf der Baustelle arbeitenden Konzentrationslagerhaef tlinge untergebracht waren.

Die Beweisaufnahme hat einwandfrei ergeben, dass einem der Hauptprobleme der I.G. beim Bau des Werkes Auschwitz in der Beschaffung von Arbeitskraef ten fuer die Bauarbeiten bestanden hat. Tausende von ungelerten Arbeitern wurden gebraucht, und ihre Arbeit war selbstverstaendlich nur voruebergahender Art und konnte nicht zu ihrer dauernden Einstellung fuehren. Gerade das war der Arbeitertyp, der durch das Konzentrationslager und das SAUCHEL-Programm beschafft werden konnte. Die von uns erwaehten Beutedokumente

ergeben eindeutig, dass die Verfügbarkheit von Arbeitskräften aus einem Konzentrationslager bei den Bauplänen für Auschwitz eine Rolle gespielt hat. JABROS ist an diesen Plänen maßgebend beteiligt gewesen. Sein unmittelbarer Vorgesetzter, mit dem er häufig in persönliche Berührung kam und den er genau ausgearbeitete Berichte erstattete, war der MEER. Auf dem Gebiet der bei der Heranbringung von Jern aufstachenden Grundfragen war der MEER an höchster Stelle tätig. Daher wäre die Annahme nicht zu rechtfertigen, dass JABROS die Besprechungen, in deren Verlauf er der MEER seine eigenen Berichte erstattete und ihm an Ratsschlüssen tat, auf Fragen des Transports, der Essensversorgung und der Erhältlichkeit von Baumaterialien beschränkt und die für ein Bauvorhaben so wichtige Frage der Arbeiterbeschaffung nicht erwähnt haben soll, bei der das Konzentrationslager eine so hervorragende Rolle spielte. Der MEERs Besichtigungsreisen nach Auschwitz lassen ihn zweifellos mindestens so viel Aufklärung verschafft wie das erkennende Gericht. Hooss wollte seine Häftlinge nicht gern auf dem Fabrikkampplatz arbeiten lassen. Er wollte sie lieber im Lager behalten. Diese Arbeiter sind der I.G. nicht aufgegeben worden. Daher ist die Annahme gerechtfertigt, dass Angestellte der I.G., die der MEER unterstellt waren, aus eigenen Antrieben diese Häftlinge für Arbeiten auf dem Baugelände angefordert haben. Diese Annahme wird weiterhin durch die Tatsache gestützt, dass die I.G. auf eigene Kosten und mit Mitteln, die vom Technischen Ausschuss unter der MEERs Vorherrschaft bereitgestellt waren, das Lager Monowitz nur zu dem Zweck erbaut hat, die für die I.G. arbeitenden Konzentrationslagerhäftlinge unterzubringen. Wir haben keinen Zweifel daran, dass die in der Bauleitung tätigen Angestellten der I.G. über das hinausgegangen sind, was wegen des von Regierungsbeurteilen ausgeübten Drucks getan werden musste, und daher mit Recht beschuldigt werden können, aus eigenen Antrieben die Verwendung von Arbeitskräften aus dem Konzentrationslager geplant und durchgeführt zu haben. Unter diesen Angestellten hatte der MEER die höchste Stellung inne. Wir können nicht feststellen, dass er die Misshandlung der Arbeiter gebilligt oder an solchen Handlungen selbst teilgenommen hat. Hierdurch allein aber entfällt nicht seine in übrigen bewiesene Strafbarkeit unter Anklagepunkt DREI.

Andere Mitglieder des Technischen Ausschusses und die Betriebsführer:

Ausser den Angeklagten von MEER und AMEROS waren auch die Angeklagten GAJEWSKI, KEBELIN, BULGIN, JASKE, KUHN, LAUFENSCHLAGER, SCHUBER und WURSTER Mitglieder des Technischen Ausschusses. Diese Angeklagten waren Betriebsführer oder Leiter von einer oder mehreren wichtigen I.G. Fabriken. Diese Fabriken wurden auf Befehl der Reichsbehörden in die Kriegswirtschaft des Reiches eingegliedert. Auf Grund eines Erlasses von HITLER über den Schutz der Kriegswirtschaft vom 31. März 1942 war den kriegswichtigen Betrieben die höchste Vordringlichkeitsstufe bei der Zuweisung der zur Verfügung stehenden Arbeitskräfte zuerkannt worden. Jeder Betriebsführer wurde aufgefordert, kriegswirtschaftliche Interessen des Reiches als seine eigenen zu betrachten. "Rücksichten, die durch persönliche Interessen oder aus Friedensabsichten entstehen, müssen dabei zurückgestellt werden Wer jedoch dieses Vertrauen missachtet und gegen die Anstandspflichten des Betriebsführers verstösst, wird unmissichtlich auf das schärfste bestraft werden...."

Dieser Erlass wurde durch weitere von HITLER stammende Weisungen und durch Bekanntmachungen seiner Beamten ergänzt, die sich mit Produktionsquoten, Arbeitsinsatz, Vordringlichkeitsstufen für Rohstoffe und anderen der Vereinheitlichung auf kriegswirtschaftlichem Gebiet dienenden Massnahmen befassen. Diese wurden weiterhin ergänzt durch Verordnungen, in denen die zu ergreifenden Massnahmen und die aufzuerlegenden Beschränkungen mit noch grösserer Ausführlichkeit vorgeschrieben wurden. In der Frage des Arbeitsinsatzes zum Beispiel enthielten diese Verordnungen Bestimmungen über Arbeitsstunden, Ernährung, Bekleidung und Unterkunft und Vorschriften über die unterschiedliche Behandlung der verschiedenen Arbeitergruppen. Im allgemeinen sollten die Arbeiter mit grösserer Strenge als die anderen Gruppen behandelt werden.

Rüstungsinspektionen wurden eingesetzt, welche die Rüstungsbetriebe zu beaufsichtigen hatten. Die Inspektoren unterrichteten sich über jede Einzelheit der in ihren Bezirken gelegenen Betriebe, sowohl über die vorliegenden Produktionsaufträge wie über die zur Verfügung stehenden Arbeitskräfte.

Sie hatten die Aufgabe, den Arbeitseinsatz, den bestimmungsgegemessen Verbrauch von bewirtschafteten Rohstoffen, die Instandhaltung der Betriebe, die Kohlenlieferungen usw. bei den ihrer Aufsicht unterstellten Fabriken zu überwachen. Daraus ergibt sich, dass die Betriebsführer wenig Möglichkeit hatten, in Produktionsfragen selbstständige Schritte zu unternehmen. Sie sind alle vollauf über die Beschäftigung von ausländischen Zwangsarbeitern, Kriegsgefangenen und Konzentrationslager-Häftlingen in den I.G.Betrieben unterrichtet gewesen und haben sich unter dem Druck der damals im Reich herrschenden Verhältnisse mit diesem System abgefunden. Die Beweisaufnahme hat uns nicht davon überzeugt, dass die genannten Angeklagten selbstständige Schritte zur Beschaffung von Zwangsarbeitern unter Umständen unternommen haben, die ihnen die Berufung auf Notstand abschneiden wurden. MERCK hat bei einer Sitzung des TK. vom 21. April 1941 einen Bericht erstattet, in dem er ausdrücklich erwähnte, dass Konzentrationslager-Häftlinge bei Bauarbeiten in der Buna-Fabrik Auschwitz verwendet wurden. Über den Umfang seiner Darlegungen ergibt sich nicht aus dem Beweismaterial. Es ist nicht festgestellt worden, dass die Mitglieder des TK. über die Schritte unterrichtet gewesen sind, die von den Angeklagten MERCK, BUETEFISCH und DUERRFELD zur Beschaffung von Arbeitern für das Auschwitz-Projekt unternommen wurden, oder dass sie davon Kenntnis gehabt haben, dass das Vorhandensein solcher Arbeitskräfte einer der entscheidenden Faktoren bei der Auswahl des Auschwitz-Geländes war. STUBBS, Direktor des Sekretariats des Technischen Ausschusses, hat in einer eidesstattlichen Erklärung ausgeführt:

"Die Mitglieder des TK. wussten bestimmt, dass I.G.Farben KZ-Lager- und Zwangsarbeiter beschäftigte. Das war allgemeines Kenntnis in Deutschland, aber der TK. hat diese Dinge nie besprochen. TK. bewilligte Kredite für Baracken für 160.000 Fremdarbeiter für I.G.Farben."

Die Mitglieder des TK. waren mit Ausnahme des Vorsitzers der MEER sämtlich Betriebsführer. Da die Organisation der I.G. auf Dezentralisation aufgebaut war, beschränkte sich die Zuständigkeit eines jeden Betriebsführers in erster Linie auf seine eigene Fabrik; er war über die Vorgänge bei anderen Betrieben und Projekten in einzelnen nicht unterrichtet.

Die Zugehörigkeit zum TBA brachte die Kenntnis dieser Einzelheiten nicht notwendigerweise mit sich. Als Betriebsführer unterstand jeder von ihnen in allen Angelegenheiten des Betriebes seines eigenen Werkes den Anweisungen und der Oberaufsicht der Reichsbehörden. Es konnte nicht von ihm verlangt werden, dass er auf den Gedanken kam, dass andere Mitglieder über das durch Regierungsbefehle und Erlasse festgelegte Mass hinausgehen und auf dem Gebiet der Arbeiterbeschaffung aus eigenen Antriebe strafbare Schritte unternehmen würden. Das Beweismaterial ist sehr kurzfristig in der Frage, welche Information den Mitgliedern des TBA, ausser A.EROS, über die Zustände in Auschwitz zugeänglich gemacht worden ist. Wir können nicht annehmen, dass die gewöhnlichen Mitglieder des TBA gewusst haben, dass A.EROS den Einsatz von Konzentrationslagerhäftlingen oder Zwangsarbeitern beim Bauverhaben aus eigenen Antrieb plante und durchführte. Auf Grund der vorliegenden Akten, können wir nicht zu der Feststellung gelangen, dass die Mitglieder des TBA wegen ihrer Zustimmung zu der Bereitstellung von Mitteln fuer Bauarbeiten und Unterkünfte in Auschwitz und anderen Werken der I.G. als schuldig anzusehen sind, wesentlich den ganzen Verlauf des verbrecherischen Verhaltens angeordnet und gebilligt zu haben, dessen sich nach unseren Feststellungen diejenigen Angeklagten schuldig gemacht haben, die von uns schon frueher als ueberfuehrt bezeichnet worden sind.

Zur Frage der angeblichen Misshandlung von auslaendischen Zwangsarbeitern und Kriegsgefangenen in den Werken der verschiedenen Betriebsgemeinschaften der I.G. enthaelt das vorliegende Beweismaterial viele Widersprueche. Die Abwaegung dieses widerspruchsvollen Materials veranlaesst uns zu der Feststellung, dass die allgemeine Tendenz bei der I.G. dahin ging, die Arbeiter in menschenwuerdiger Weise zu behandeln, und dass diese ganze Gruppe von Angeklagten alles getan hat, was unter den bestehenden Umstaenden moeglich war, um das mit dem Sklavenarbeiterprogramm unvermeidbar verbundene Elend zu mildern. Riesige Summen sind fuer Unterkuente und die verschiedensten Wohlfahrtsrichtungen ausgegeben worden. Es sind viele Einzelfaelle vorgekommen, in denen Arbeiter misshandelt wurden, aber es ist nicht erwiesen, dass solche Handlungen von irgendeinem der Angeklagten gebilligt worden sind, und es kann auch nicht gesagt werden, dass die Angeklagten den Rahmen der Vorschriften uberschritten haben, die eine bestimmte Behandlung und Disziplinierung der Arbeiter anordneten.

Auch hier wieder darf nicht ausser Acht gelassen werden, dass die Gestapo allgegenwärtig war, um jeden Unternehmer zur Innehaltung der Gebote des Systems zu zwingen. In Werk Landsberg, das zur Zuständigkeit des Angeklagten G. JENSKI gehörte, sind eine Anzahl von Kriegsgefangenen während der Arbeit gestorben. Die Beweisaufnahme hat uns nicht davon überzeugt, dass ihr Tod auf Misshandlungen durch Angestellte der I.G. zurückzuführen ist. Die militärischen Dienststellen waren im Wesentlichen für die Ernährung, die Behandlung und den Einsatz der Kriegsgefangenen verantwortlich. Das zu diesem Punkt beigebrachte Beweismaterial lässt den Schluss zu, dass die Kriegsgefangenen schon bei ihrer Ankunft in schlechten Gesundheitszustand waren, und dass dieser Zustand mehr zu ihrem Tod beigetragen hat als die Arbeit oder die schlechte Behandlung. Wir können auch gerechterweise den Angeklagten BUEGGE nicht für die zwei verbrecherischen Ausschreitungen verantwortlich machen, die in Werk Bitterfeld vorgekommen sind. In einem Falle wurde ein russischer Gefangener bei einem Fluchtversuch erschossen. Es ist nicht erwiesen, dass BUEGGE an den Vorfall irgendwie beteiligt war oder dass er die Tat gebilligt hat oder mit ihr innerlich einverstanden war. BUEGGE war nicht in Werk Bitterfeld anwesend, als die Gestapo fünf Russen in einen der Lager aufhängte, um die anderen Arbeiter in Furcht zu versetzen. Da die Akten ergeben, hat die Betriebsleitung gegen die von der Gestapo beabsichtigten Massnahmen Widerspruch erhoben und unter Gefahr für die eigene Sicherheit jede Mitwirkung abgelehnt. Das Beweismaterial, auf das sich die Anklagebehörde stützt um nachzuweisen, dass die einzelnen Betriebsleiter aus eigenen Betriebes Zwangsarbeiter sich beschafft und verwendet haben, ist von dem Militärgericht genau geprüft worden. Ohne hier auf das Beweismaterial in allen Einzelheiten einzugehen, stellen wir fest, dass in dieser Beziehung strafbare Handlungen der Angeklagten nicht zur Überzeugung des Gerichts nachgewiesen worden sind.

Es wird behauptet, dass SCHNEIDER als Hauptbetriebsführer der I.G. für alle Arbeiterfragen innerhalb der I.G. zuständig war und für die Beschäftigung und Misshandlung von Arbeitern strafrechtlich verantwortlich gemacht werden müsse.

Wir haben SCHMIDT'S Stellung - genau geprüft und sind zu dem Ergebnis gekommen, dass Eingriffe in die Zuständigkeit der örtlichen Werksleiter nicht zu seinem Aufgabengebiet gehörten. Er hatte die Aufgabe, Fragen auf dem Gebiet der Unterbringung und der Arbeiterwohlfahrt, die in mehr als einem Betrieb auftauchten, allgemein und einheitlich zu lösen; es ist nicht ausreichend bewiesen, dass er aus eigenem Antriebe Schritte zur Beschaffung oder zum Einsatz von Arbeitern innerhalb der I.G. unternommen hat. Aus dem von uns geprüften Beweismaterial über die Louisa-Werke, wo SCHMIDT gleichzeitig Betriebsführer war, konnten wir nicht den Schluss ziehen, dass er aus eigener Initiative eine solche Tätigkeit entwickelt hat, die seine Berufung auf Notstand wirkungslos machen würde, dessen Vorliegen im übrigen bewiesen ist.

Dementsprechend sprechen wir die Angeklagten GALT SEI, HOLZBEIN, BURGIN, JAHRES, KREHLE, LAUBSCHLAGER, SCHMIDT und WERTER frei von der Anklage in Punkt III der Anklageschrift.

Die übrigen Angeklagten:

Es kam keinen Zweifel unterliegen, dass der Angeklagte SCHMITZ, der Vorsitzende des Vorstandes, und die bisher nicht erwähnten Vorstandsmitglieder, die Angeklagten von SCHMITZLER, von KRIEGER, HANFLIGER, ILGER, MANN und GIER wesentlich gewusst haben, dass Sklavenarbeiter in grosser Zahl entsprechend dem Zwangsarbeiterprogramm des Dritten Reiches beschafft wurden. SCHMITZ hat dem Aufsichtsrat zwei Berichte über Probleme der Arbeiterbeschaffung bei der I.G. erstattet und darin ausgeführt, dass es notwendig geworden sei, den Arbeitsmangel durch Einstellung von Ausländern und Kriegsgefangenen abzuheben. Diese Tatsache beweist nicht, dass die I.G. aus eigenem Antriebe Kriegsgefangene in rechtswidriger Weise beschäftigt hat. Es ist nicht bewiesen worden, dass SCHMITZ oder eines der anderen jetzt behandelten Vorstandsmitglieder Aufgaben im Zusammenhang mit dem Einsatz oder der Beschaffung von Zwangsarbeitern zu erfüllen hatte. Wir können nicht feststellen, dass die genannten Angeklagten aus eigenem Antriebe an der Beschaffung von Konzentrationslagerhäftlingen sich beteiligt haben. Die Beweisaufnahme hat uns nicht davon überzeugt, dass der Vorstand

bei Genehmigung des Auschwitzer Bauvorhabens die Möglichkeit der Beschäftigung von Konzentrationslagerhäftlingen als einen der Gründe erwogen hat, die fuer die Wahl der Lage fuer das Werk Auschwitz mitbestimmend waren. Es ist nicht einmal voll bewiesen, dass die Vorstandsmitglieder in dem Zeitpunkt, in dem sie den Plan genehmigten, tatsächlich gewusst haben, dass Häftlinge spaeter verwendet werden wuerden. Ihr Wissen war notwendigerweise nicht so weitgehend wie das der Mitglieder des Technischen Ausschusses, denen die erforderliche Kenntnis, wie wir bereits ausgeführt haben, ebenfalls nicht in ausreichendem Masse nachgewiesen worden ist. Unsere allgemeinen Bemerkungen zur Frage der Misshandlung von Arbeitern in den Werken der I.G. finden auf die vorgenannten Angeklagten gleichfalls Anwendung. Wir koennen nicht zu der Feststellung kommen, dass sie fuer die gelegentlichen Faelle von Misshandlung der in den verschiedenen Werken der I.G. beschaeftigten Arbeiter strafrechtlich verantwortlich sind; ebensowenig halten wir diese Angeklagten fuer die Vorfaelle auf dem Beugelaende in Auschwitz fuer verantwortlich.

Auf Grund des uns vorliegenden Materials sprechen wir die Angeklagten SCHMITZ, von SCHMITZER, von EISELICH, HAMFLICHER, ILONER, MANN und OSTER von der in Punkt DREI erhobenen Anklage frei.

Die Angeklagten GATTINAU, von der HEYER und EUGLER waren weder Mitglieder des Vorstandes der I.G. noch des Technischen Ausschusses. Es ist kein belastendes Tatsachenmaterial vorhanden, durch das ihre Verbindung mit den in Anklagepunkt DREI erhobenen Beschuldigungen in einer zur Feststellung ihrer Strafbarkeit ausreichenden Weise dargetan wird. Diese drei Angeklagten werden daher von allen Anklagen dieses Anklagepunktes freigesprochen.

Anklagepunkt VIER.

Unter diesem Anklagepunkt wird die Beschuldigung erhoben dass:

"Die Angeklagten SCHNEIDER, BUSTZFISCH und VOI DER HEYDE nach dem 1. September 1939 Mitglieder der Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiter-Partei (allgemein bekannt als "SS") gewesen sind, einer Organisation, die das Internationale Militärgericht und Artikel 2 Paragraph 1 (d) des Kontrollratsgesetzes Nr. 10 fuer verbrecherisch erklart haben."

Es ist eine geschichtliche Tatsache, dass die in der Anklageschrift als "SS" bezeichnete Organisation im Jahre 1925 von Hitler gegruendet wurde und dass die Mitgliedschaft durchaus freiwillig war bis zum Jahre 1940, als Einberufungen auch fuer diese Organisation eingefuehrt wurden. Die SS bestand aus zahlreichen Einheiten; viele von ihnen sind zur Ausfuhrung einer Reihe von Verbrechen verwendet worden, die zu den schauderhaftesten unter dem nationalsozialistischen Regime begangenen Untaten gehoeren.

Artikel II, 1 (d) des Kontrollratsgesetzes Nr. 10 bestimmt:

"1. Jeder der folgenden Tatbestaende stellt ein Verbrechen dar:
.....

"(d) Zugehoerigkeit zu gewissen Kategorien von Verbrechervereinigungen oder Organisationen, deren verbrecherischer Charakter vom Internationalen Militärgerichtshof festgesetzt worden ist."

Artikel 10 des Statuts des IMG bestimmt:

"Ist eine Gruppe oder Organisation vom Gerichtshof als verbrecherisch erklart worden, so hat die zustandige nationale Behoerde jedes Signaturs das Recht, Personen wegen ihrer Zugehoerigkeit zu einer solchen verbrecherischen Organisation vor Nationalen-, Militar- oder Okkupationsgerichten den Prozess zu machen. In diesem Falle gilt der verbrecherische Charakter der Gruppe oder Organisation als bewiesen und wird nicht in Frage gestellt."

Bei der Erroertung der SS hat das IMG alle Personen, die formell als Mitglieder in eine der Gliederungen der erwachten Organisation aufgenommen worden waren, als Angehoerige dieser Organisation angesehen; nur die sogenannte Reiter-SS wurde ausgenommen. Der Gerichtshof hat diejenigen Gruppen der erwachten Organisation fuer verbrecherisch erklart, die sich aus Personen zusammensetzten, die Mitglieder geworden oder geblieben waren in Kenntnis der Tatsache, dass diese Gruppen in Zusammenhang mit der Kriegfuhrung zur Begehung von Kriegsverbrechen oder von Verbrechen gegen die Menschlichkeit verwendet wurden,

oder die in ihrer Eigenschaft als Mitglieder der erwachten Organisation persoenlich an der Begehung solcher Verbrechen beteiligt waren. Der Gerichtshof hat jedoch die Personen, die der Staat zur Mitgliedschaft eingezogen hatte, ohne ihnen eine Wahl zu lassen, und die keine derartigen Verbrechen begangen hatten, ausdruedklich von denjenigen Mitgliedsgruppen ausgenommen, die er zu verbrecherischen Organisationen erkluert hat. Ebenso werden die Personen behandelt, die vor dem 1. September 1939 ihre Mitgliedschaft in einer der erwachten Organisationen aufgegeben hatten.

Das IMG fuehrt hierzu aus:

"Eine verbrecherische Organisation entspricht einer verbrecherischen Verschwuerung insofern, als das Wesen beider die Zusammenarbeit zu verbrecherischen Zwecken ist. Es muss sich um eine Gruppe handeln, die zusammengeschlossen und fuer einen gemeinsamen Zweck organisiert ist. Die Gruppe muss ferner gebildet oder benuetzt sein in Verbindung mit Verbrechen, die im Statut beschrieben sind. Da, wie bereits betont wurde, die Erklaerung bezueglich der Organisationen und Gruppen die Strafbarkeit ihrer Mitglieder festsetzen wird, soll diese Erklaerung diejenigen ausschliessen, die keine Kenntnis der verbrecherischen Zwecke oder Handlungen der Organisationen hatten, sowie diejenigen, die durch den Staat zur Mitgliedschaft herangezogen worden sind, es sei denn, dass sie sich als Mitglieder einer Organisation persoenlich an Taten beteiligt haben, die durch den Artikel 6 des Statuts fuer verbrecherisch erkluert worden sind. Die blosser Mitgliedschaft reicht nicht aus, um von solchen Erklaerungen betroffen zu werden."

Schliesslich hat das IMG eine Reihe von Empfehlungen gegeben, aus denen wir zitieren:

"Da die vom Gerichtshof abgegebenen Erklaerungen, dass eine Organisation verbrecherisch ist, von anderen Gerichten in Prozessen gegen Personen wegen ihrer Mitgliedschaft in solchen Organisationen verwendet werden sollen, haelt es der Gerichtshof fuer angebracht, die folgenden Empfehlungen auszusprechen: . . .

2. Das Gesetz Nr. 10, auf das bereits Bezug genommen wurde, ueberlaesst die Bestrafung vollkommen dem Ermessens des Gerichts, sogar mit Einschluss der Befugnis, die Todesstrafe zu verhaengen.

Das Entnazifizierungsgesetz vom 5. Maertz 1946, das fuer Bayern, Gross-Hessen und Wuerttemberg-Baden angenommen wurde, sieht jedoch bestimmte Strafen fuer jeden Typ von Verbrechen vor. Der Gerichtshof empfiehlt, dass die auf Grund des Gesetzes Nr. 10 ueber ein Mitglied einer vom Gerichtshof fuer verbrecherisch erkluerten Organisation

oder Gruppe verhängte Strafe in keinem Fall höher sein soll als die, die vom Entnazifizierungsgesetz festgelegt wird. Niemand darf nach beiden Gesetzen bestraft werden."

Das Entnazifizierungsgesetz vom 5. März 1946 für Bayern, Gross-Hessen und Württemberg-Baden hat die Höchststrafe für diejenigen, die sich als Mitglieder der SS aktiv an der nationalsozialistischen Tyrannei beteiligt haben, festgelegt; diese Personen können für einen Zeitraum von nicht weniger als zwei und nicht mehr als zehn Jahren in ein Arbeitslager überführt werden, um dort Biederputzungs- und Wiederaufbauarbeiten auszuführen; eine nach dem 8. Mai 1945 erfolgte Internierung aus politischen Gründen kann auf diese Strafe angerechnet werden. Das Gesetz enthält auch Bestimmungen über Vermögensentziehung und Aberkennung der bürgerlichen Ehrenrechte.

Die Anklagebehörde sagt in ihrem vorbereitenden Schriftsatz dass:

"es völlig überflüssig erscheint, mit der Behauptung zu rechnen, dass intelligente Deutsche und vor allem langjährige SS-Angehörige nicht gewusst hätten, dass die SS zur Beghung von Taten verwendet wurde, die 'als Kriegsverbrechen und Verbrechen gegen die Menschlichkeit' ... anzusehen sind".

Diese Annahme ist nach unserer Auffassung kein ausreichender Grund, die Beweislast auf die Angeklagten abzuwälzen oder die Anklagebehörde ihrer Pflicht zu entheben, die Erfuellung aller Tatbestandsmerkmale des Verbrechens zu beweisen. Selbstverständlich braucht kein direkter Beweis für die erforderliche Kenntnis erbracht zu werden, Beweis durch ausreichend erwiesene Indizien ist zulässig.

Das Militärgericht II hat im Fall der Vereinigten Staaten gegen Fohl und Genossen (Fall 4) bei seiner Erörterung der Strafbarkeit des wegen Mitgliedschafts in der SS angeklagten Rudolf SCHEIDT die folgenden Ausführungen gemacht:

"Der Angeklagte gibt zu, Mitglied der SS gewesen zu sein, einer Organisation, die durch Urteil des Internationalen Militärgerichtshofes für verbrecherisch erklärt worden ist, doch hat die Anklagevertretung kein Beweismaterial dahingehend vorgelegt, dass der Angeklagte von der verbrecherischen Tätigkeit der SS Kenntnis hatte oder dass er nach dem 1. Dezember 1939 trotz dieser Kenntnis Mitglied genannter Organisation blieb oder sich während seiner Mitgliedschaft in dieser Organisation an verbrecherischen Tätigkeiten beteiligte.

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"Der Gerichtshof erkennt und urteilt daher, dass der Angeklagte Rudolf Scheide gemäss Punkt IV der Anklageschrift nicht schuldig ist."

Der Angeklagte SCHNEIDER war von 1933 bis 1945 Förderndes Mitglied der SS. In dieser Eigenschaft bestand sein einziger direkter Zusammenhang mit der erwähnten Organisation in der Zahlung von Mitgliedsbeiträgen.

In Fall der Vereinigten Staaten gegen ALTSTÖTTER und Genossen (Fall No.3) zitiert der Gerichtshof III Stellen aus dem Teil des IMG Urteils, in dem die strafrechtliche Verantwortlichkeit auf Grund der Mitgliedschaft in der SS erörtert wird, und macht dann im Verlauf seiner Urteilsbegründung auf Seite 10906 des englischen Protokolls die folgenden Ausführungen: "Das erkennende Gericht ist nicht der Auffassung, dass die Fördernde Mitgliedschaft unter diese Gruppe fällt." Wir schliessen uns dieser Auffassung an.

Die Mitgliedslisten der SS ergeben, dass der Angeklagte BURTFISCH am 20. April 1939 zum Ehrenführer in der SS und gleichzeitig zum Hauptsturmführer befördert wurde; dass er am 30. Januar 1941 den Rang eines Sturmbannführers erhielt, und am 5. März 1943 zum Obersturmbannführer befördert wurde. Aus den gleichen Unterlagen ist zu erschen, dass der Angeklagte zuerst den Oberabschnitt Elbe, von 1. Mai bis 1. November 1941 der Personal-Abteilung des Hauptamts, und von da an den SS-Hauptamt selbst zugeteilt war.

Zur Erklärung seiner Verbindung mit der SS hat der Angeklagte die folgenden Ausführungen gemacht:

Bald nachdem er im Jahre 1934 stellvertretender Betriebsführer der Leuna Werke der I.G. geworden war, sei er mit einem gewissen KRANZFUSS in Berührung gekommen, dem Geschäftsführer des Kreises der Freunde Himmlers und Vorsitzendes Vorstands der BRABAG (der abgekürzte Name einer Gesellschaft, die Benzin aus Braunkohle erzeugte). Die Bekanntschaft des Angeklagten mit diesem Mann ging auf ihre Schulzeit zurück. Während der Jahre, die auf die Wiederaufnahme ihrer Beziehungen folgten,

habe er, der Angeklagte, von seiner persönlichen Bekanntschaft mit KRJEFUSS und dessen guten Diensten häufigen Gebrauch gemacht, und zwar sowohl in Geschäftsangelegenheiten wie auch besonders zum Schutze bestimmter Juden und anderer unterdrückter Personen, fuer die er, der Angeklagte, sich interessiert habe. Im Anfang des Jahres 1939 habe KRJEFUSS ihn darauf hingewiesen, dass er den politisch Bedrückten weit leichter werde helfen koennen, wenn er der SS beitrete. Er, der Angeklagte, habe darauf geantwortet, dass es ihm auf Grund seiner beruflichen und persönlichen Ueberzeugungen unmöglich sei, Treueid zu leisten, sich der Befehlsgewalt der SS zu unterwerfen, ihren Veranstaltungen beizuwohnen oder ihre Uniform zu tragen. Der Angeklagte erklart, er habe damals geglaubt, dass seine Antwort den Vorhaben, ihn zum Eintritt in diese Organisation zu bewegen, ein Ende setzen werde, aber zu seiner grossen Ueberraschung habe ihn KRJEFUSS kurz darauf mitgeteilt, dass er unter Bewilligung der von ihm gestellten Bedingungen zum Ehrenmitglied ernannt worden sei. Der Angeklagte hat erklart, er habe sich auf diese Weise vor eine unerwartete Alternative gestellt gesehen; er habe die Wahl gehabt, entweder die Freundschaft von KRJEFUSS zu verlieren, die sich bei seinen Hilfsleistungen fuer die unterdrückten Opfer der Unduldsamkeit der SS als hoechst nuetzlich erwiesen habe, oder die Ehrenmitgliedschaft mit der erwarteten Massgabe anzunehmen. Er habe den zweiten Weg gewaehlt. Der Angeklagte behauptet, dass er bis zum Schluss niemals den SS-Eid geleistet, sich der Befehlsgewalt der SS unterworfen, irgend-einer ihrer Veranstaltungen beigewohnt, oder eine Uniform besessen oder getragen habe. Er habe, als ihm nach Erwerb der Mitgliedschaft vorgeschlagen worden sei, sich fuer besondere Gelegenheiten eine Uniform anzuschaffen, auf die Bedingungen hingewiesen, unter denen er die Mitgliedschaft angenommen habe, und auf seinem Standpunkt beharrt. Dies habe zu einer Auseinandersetzung mit KRJEFUSS gefuehrt, in deren Verlauf er, der Angeklagte, verlangt habe, dass sein Name aus der Rangliste der SS-Fuehrer gestrichen werden solle. Der Angeklagte behauptet auch, dass seine Befoerderungen und Kommandierungen bedeutungslos gewesen und automatisch und ohne seine Veranlassung vorgenommen worden seien.

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Die Akten enthalten die Bestätigung dieser Angaben des Angeklagten, und keine seiner Angaben ist von der Anklagebehörde klar widerlegt worden.

Die Anklagebehörde hat bei ihrer Würdigung der Stellung des Angeklagten in der SS Gewicht gelegt auf seine intimen Beziehungen zu KRANEFUSS und dessen enge Verbindung mit HIMMLER und seinen Freundeskreis. Es hat sich ergeben, dass der Angeklagte ungefähr gleichzeitig mit seiner Ernennung zum Ehrenführer der SS Mitglied dieses Kreises wurde, und dass er den Sitzungen des Kreises regelmäßig beigewohnt hat. Er war auch zugegen, als die sämtlichen Mitglieder auf HIMMLERs Einladung in seinen Hauptquartier in Ostpreussen weilten. Der Gerichtshof IV hat in Fall 5 (Vereinigte Staaten gegen FLICK und Genossen) bei seiner Erörterung dieser Zusammenkünfte des Himmler'schen Kreises den Charakter und die Tätigkeit dieser Gruppe sowie die Rolle von KRANEFUSS von allen Seiten betrachtet und festgestellt:

"Wir konnten in den Versammlungen selbst nicht die finsternen Zwecke finden, deren Bestehen die Anklagebehörde behauptet hat... Soweit konnten wir nichts Verbrecherisches oder auch nur Unmoralisches in der Teilnahme der Angeklagten an diesen Versammlungen erblicken. Als Gruppe (er kann kaum als eine Organisation bezeichnet werden) hatte der Kreis keinen Anteil an der Festlegung der Politik des Dritten Reiches."

Die Anklagebehörde hat jedoch darauf hingewiesen, dass der Freundeskreis in den Jahren 1941, 1942, und 1943 Spenden von mehr als einer Million Reichsmark jährlich an die SS geleistet hat, und dass davon 100.000 Reichsmark ^{die} jährlich Beiträge der I.G. darstellten, die von den Angeklagten SCHMITZ und BUSTEFISCH angewiesen worden sind. Die Feststellung dieser Tatsache wurde fuer die hier erörterte Beschuldigung nur insoweit von Bedeutung sein, als sie in Zusammenhang mit anderen Tatsachen darauf hindeuten wurde, dass BUSTEFISCH zu dem Zeitpunkt, als er Mitglied wurde, oder während der Zeit seiner Mitgliedschaft - wenn er überhaupt tatsächlich Mitglied war - von den verbrecherischen Absichten oder Handlungen der SS Kenntnis hatte. Mit anderen Worten: wir müssen zuerst feststellen, ob der Angeklagte Mitglied der SS in dem Sinne war, den das I.G. vor Augen hatte, als es zu der Entscheidung kam, dass eine derartige Mitgliedschaft strafbar sei.

Nur wenn wir feststellen, dass der Angeklagte in dem anerkannten Sinne Mitglied gewesen ist, müssen wir uns auch mit der Frage beschäftigen, ob er von der verbrecherischen Tätigkeit der Organisation Kenntnis hatte.

Die erschöpfenden Gründe, die die Oberste Spruchkammer in Hamm in ihrer Entscheidung angeführt hat, in der sie die Verurteilung des Barons von Schroeder wegen Ehrenmitgliedschaft in der SS bestätigte, sind von der Anklagebehörde als Grundlage der von ihr erhobenen Beschuldigungen zitiert und zur Grundlage ihres Vorbringens gemacht worden. Der Unterschied im Tatbestand zwischen dem hier erörterten Fall und dem Fall von Schroeder ergibt sich klar aus der erwachten Begründung. Bei ihrer Erörterung der Beziehungen zwischen von Schroeder und der SS hat die Oberste Spruchkammer die folgenden Ausführungen gemacht:

"Auf dem Reichsparteitage im Jahre 1936 wurde ihm durch Himmler mündlich eröffnet, dass er als Ehrenmitglied in Range eines Standartenführers in die Allgemeine SS aufgenommen worden sei..."

.....

"Der Angeklagte erhielt nach seiner Aufnahme in die Allgemeine SS als Ehrenmitglied, wie die Revision selbst ausdrücklich zugibt, eine Mitgliedsnummer, zahlte regelmässig den Mitgliedsbeitrag, wurde im Jahre 1938 zum SS-Oberführer und im Jahre 1941 zum SS-Brigadeführer befördert, zeigte sich bei besonderen Anlässen in der Uniform seines Dienstgrades, nahm allerdings niemals an irgendwelchem SS-Dienst teil und wurde keiner bestimmten SS-Einheit zugeteilt, sondern als zugeteilter Führer bei einem Stabe geführt."

Im Gegensatz zu von Schroeder, der bei besonderen Gelegenheiten in einer seinem Rang entsprechenden Uniform erschien, hat sich der Angeklagte BUETE-FISCH trotz direkter Aufforderungen ständig geweigert, sich eine Uniform anzuschaffen. Dieser Umstand im Zusammenhang mit den übrigen bedeutsamen Bedingungen, unter denen der Angeklagte die Ehrenmitgliedschaft angenommen und auf denen er während der Dauer seiner Mitgliedschaft beharrlich bestanden hat, deutet darauf hin, dass er in eine völlig andere Gruppe gehört als von Schroeder.

Wir legen der Tatsache, dass der Angeklagte als "Ehrenmitglied" in der Stammliste geführt wurde, keine besondere Bedeutung bei, sind vielmehr der Auffassung, dass die Stellung des Angeklagten in der Organisation auf Grund der tatsächlichen Beziehungen festgestellt werden muss, in der er zu der Organisation und die Organisation zu ihm stand. Die Mitgliedschaft in einer Organisation ist gemeinhin ein auf Gegenseitigkeit beruhendes Verhältniss. Die Organisation gibt dem Mitglied bestimmte Rechte, Privilegien und Vorteile, und das Mitglied übernimmt entsprechende Aufgaben, Verpflichtungen und Verantwortungen der Organisation gegenüber. Einer der Vorteile, die einer Organisation aus der Zugehörigkeit sogenannter Ehrenmitglieder erwachsen können, besteht in der Erhöhung ihres Ansehens, die daraus folgt, dass hervorragende Persönlichkeiten sich mit der Organisation identifizieren. Dieser Punkt wurde von der Obersten Spruchkammer im Falle von Schroeder unterstrichen, aber selbst dieser Vorteil wird in dem hier erörterten Fall zunichte gemacht durch die erwiesene Tatsache, dass Buchefisch sich geweigert hat, den Veranstaltungen der Organisation beizuwohnen oder ihre Abzeichen zu tragen. Daher können wir zwangsläufig zu dem Schluss, dass die Beweisaufnahme nicht zur Überzeugung des Gerichts ergeben hat, dass der Angeklagte Buchefisch ein Mitglied einer durch Urteil des DMG als verbrecherisch erklärten Organisation war.

Der Angeklagte von der Heyde ist in Anklagepunkt VIER der Anklageschrift zuletzt genannt. Im Jahre 1933 wurde er in Mannheim Mitglied des Reitersturms der SS; seine Mitgliedsnummer war 200180. Der Reitersturm ist diejenige Formation innerhalb der SS, die das DMG als eine nicht verbrecherische Organisation erklärt hat.

Im Jahre 1938 übersiedelte der Angeklagte nach Berlin; dort arbeitete er in der Wirtschaftspolitischen Abteilung des Bureaus NW 7 der I.G. Die Anklagebehörde macht geltend, dass der Angeklagte während seines Berliner Aufenthalts ein tätiges Mitglied der Allgemeinen SS gewesen sei, und hat versucht, diese Behauptung mit dem folgenden dokumentarischen Beweismaterial zu erhärten:

1. Die SS-Personalakten, in denen die Mitgliedsnummer des Angeklagten in dieser Organisation als 200180 angegeben ist, und das Eintragungen enthält, denen zufolge er am 30. Januar 1938 zum Sturmführer,

am 10. September 1939 zum Obersturmführer und am 30. Januar 1941 zum Hauptsturmführer befördert wurde. Bei der Eintragung über die Beförderung des Angeklagten zum Sturmführer im Jahre 1938 befindet sich eine Bemerkung, die besagt, dass er ein "Führer in SD" war.

2. Ein Fragebogen des SS Rasse- und Siedlungsausschusses, den der Angeklagte ausgefüllt hat, in dem seine SS Nummer ebenfalls als 200 180, sein Rang als der eines Sturmführers, seine Formation als das "SS-Hauptamt" und seine Tätigkeit als "Ehrenamtlicher Mitarbeiter beim SS Hauptamt" angegeben ist.

3. Der schriftliche Antrag des Angeklagten vom 6. Mai 1939 an den Reichsführer der SS, in dem er um Erlaubnis zur Anschliessung bittet, (eine Erlaubnis, die fuer alle Mitglieder der SS und auch der Wehrmacht erforderlich war). In diesem gedruckten Formular ist die Mitgliedschaft in vier Formationen der SS aufgeführt (der Reitersturm ist nicht darunter), und die Gruppe der Allgemeinen SS ist unterstrichen, woraus nach der Ansicht der Anklagebehörde zu folgern ist, dass sich der Angeklagte damals als Mitglied dieser Gruppe betrachtet hat. In diesem Dokument wird die Mitgliedsnummer des Angeklagten ebenfalls als 200 180, als seine Formation das "SS Hauptamt", und als sein Vorgesetzter einer der Abteilungsleiter in diesem Amt, Standartenführer Six, angegeben.

Der Angeklagte hat ausgesagt, dass er nach seinem Umzug von Mannheim nach Berlin im Jahre 1936 von dem SS Reitersturm in den Bourlaubtonstand versetzt worden sei. Er hat weiterhin gesagt, dass er von da an niemals mehr Mitgliedsbeiträge an den Reitersturm bezahlt habe; jedoch habe er in Berlin Parteibeiträge bezahlt; es sei möglich, dass ein Teil von Parteibeamten ohne sein Wissen an die SS abgeführt worden sei. Er hat nachdrücklich bestritten, jemals mit einer anderen SS Formation ausser dem Reitersturm unmittelbar oder mittelbar in Verbindung gestanden zu haben.

Der Angeklagte hat erklärt, dass die Eintragungen in seinen von der Anklagebehörde vorgelegten Personalakten nicht auf seine Veranlassung vorgenommen worden seien. Er hat in besonderen betont, dass die Bemerkung, dass er am 30. Januar 1938 ein "Führer in SD" gewesen sein soll, jeder tatsächlichen Grundlage entbehre,

und fñhrt diese Eintragung auf einen Schreibfehler oder eine irrtge Annahme des Bueroschreibers zurueck, der die Liste angelegt oder gefñhrt hat.

Der Angeklagte hat erklart, dass seine stufenweisen Befoerderungen von Sturmfnhrer bis zum Hauptsturmfnhrer automatisch und bei allen Gliederungen der SS einschliesslich der Reiter-SS ueblich gewesen seien, und dass man daraus nicht auf eine Mitgliedschaft in einer verbrecherischen Organisation schliessen koenne. Der Umstand, dass in allen Dokumenten, die sich mit den Beziehungen des Angeklagten zur SS befassen, seine Mitgliedsnummer als 200180 angegeben ist, wird als bezeichnend angesehen, da dies die Nummer ist, die er urspruenglich auf seiner ersten am Anfang des Jahres 1934 in Mannheim ausgegebenen Mitgliedskarte des Reitersturms erhalten hatte.

Der Angeklagte hat fernerhin in eigener Sache ausgesagt, dass er, als er sich Mitte 1939 zur Heirat entschloss, es vorgezogen habe, die erforderliche Erlaubnis durch eine Berliner Dienststelle der SS, und nicht durch eine Stelle in Mannheim zu beantragen, und zwar aus zwei Gruenden: erstens weil er damals in Berlin gewohnt habe, und zweitens weil er geglaubt habe, dass die Erteilung der Erlaubnis verzögert werden wuerde, wenn die Sache ueber Mannheim ginge. Sein Verteidiger weist darauf hin, dass diese Auffassung berechtigt gewesen sei, da er tatsaechlich ungefaehr 6 Monate dazu gebraucht habe, die Erlaubnis durch Berlin zu erlangen, obgleich er dort ansaessig gewesen und den Antrag persoenlich durch die dortige Dienststelle gestellt habe.

Zur Erklaerung der Tatsachen, die dazu gefñhrt haben, dass er in den Fragebogen des Rasse- und Siedlungsamts und in seinem formellen Antrag auf Erlaubnis zur Eheschliessung als seine Formation das SD Hauptamt, als seine Tuetigkeit die eines ehrenamtlichen Mitarbeiters beim SD Hauptamt und als seinen Vorgesetzten den Standaardfnhrer Six angegeben habe, hat der Angeklagte angegeben, dass dies die Aemter, Dienststellen und Personen der SS gewesen seien, mit denen er infolge seiner Berliner Tuetigkeit beim NW 7 Buero in Beruehrung gekommen sei, und dass er diese Angaben in der Hoffnung gemacht habe, auf diese Weise die Genehmigung zu seiner Eheschliessung schneller zu erhalten. Auf jeden Fall macht der Angeklagte geltend, dass diese Angaben mit seiner Mitgliedschaft beim Reitersturm nicht unvereinbar seien;

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man koenne aus ihnen auch nicht schliessen, dass er Mitglied des SD gewesen sei, da gezeigt worden sei, dass ein Mitglied des Reitersturms sehr wohl einem SD Hauptamt als ehrenamtlicher Mitarbeiter haette zugeteilt werden koennen. Diese Tatsache ist durch die Aussage des Zeugen ORTENDORF, des Leiters des SD, bestaetigt worden, der bei seiner Aussage in eigener Sache eine solche Wahrheitsliebe an den Tag gelegt hat, - obgleich er damit zu seiner eigenen Verurteilung beitrug -, dass ihm der Gerichtshof II seine Anerkennung ausgesprochen hat.

Bei seiner Eroerterung des SD hat das IMG "alle oertlichen Vertreter und Agenten, ob ehrenamtlich oder nicht, ob formell Mitglieder der SS oder nicht", als Mitglieder dieser Organisation angesehen, und es hat diese Organisation als verbrecherisch erklart. Jedoch wird von der HEYDE in dem hier eroerterten Fall ausdrucklich der Mitgliedschaft in der SS, nicht im SD, beschuldigt und fuer diese Tatsache ist die Anklagebehoeerde beweispflichtig. Es ist nicht erwiesen, dass die Mitgliedschaft in der SS eine notwendige Voraussetzung fuer die Mitgliedschaft im SD gewesen waere. Das IMG ist in seinem Urteil nicht dieser Auffassung gewesen und hat diese Gruppen als getrennte, wenn auch verwandte Organisationen behandelt.

In Anbetracht der Tatsache, dass die einzige mit Bestimmtheit festgestellte Verbindung des Angeklagten mit der SS in seiner Zugehoerigkeit zu dem als nicht verbrecherisch erklarten Reitersturm bestanden hat, und dass das Beweismaterial, das auf seine spaetere Mitgliedschaft bei der Allgemeinen SS hindeutet, nur auf den ausschliesslichen Begleitumstaenden seiner auf Erlangung der Heiratslaubnis gerichteten Bemuehungen beruht, kommen wir zu dem Schluss, dass eine unter Anklagepunkt VIER fallende strafbare Handlung des Angeklagten von der HEYDE nicht ausreichend bewiesen ist.

Die Angeklagten SCHWIDIGER, HILTEFISCH und von der HEYDE werden daher von der unter Anklagepunkt VIER erhobenen Anklage freigesprochen.

Durch Erhebung zahlreicher Widersprüche und in ausdrucklich
 gestellten Anträgen haben mehrere Verteidiger in Verlauf der
 Beweisaufnahme und der Schlussverträge, sowie in ihren abschliessenden
 Schriftsätzen die Rechtsbeständigkeit der Gesetze, Verordnungen
 und Erlasse angegriffen, auf denen die Bildung des Militärgerichts
 und seine Tätigkeit beruht. Wir haben diese Fragen noch einmal
 sorgfältig erwogen; nach unserer Überzeugung ist das erkennende
 Gericht rechtmässig gebildet und zusammengesetzt, ist zuständig
 fuer die Aburteilung der in diesem Verfahren zur Anklage stehenden
 Handlungen und hat Gerichtsbarkeit ueber die Angeklagten; das
 Militärgericht ist daher in jeder Hinsicht befugt und berechtigt
 zum Erlass dieses Urteils.



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OPINION EXPRESSED IN
OPEN SESSION OF MILITARY TRIBUNAL VI
30 July 1948.

FILED 150014m
29 July 1948
H. H. H. H.
Secretary General
1011. 1011. 1011.
Nürnberg, Germany

I concur in the result reached by the majority under Counts One and Five of the Indictment acquitting all of the defendants, but I wish to indicate the following: The Judgment contains many statements with which I do not agree and in a number of respects is at variance with my reasons for reaching the result of acquittal. I reserve the right, therefore, to file a separate concurring opinion on Counts One and Five.

As to Count Three of the Indictment, I respectfully dissent from that portion of the Judgment which recognizes the defense of necessity as applicable to the facts proven in this case. It is my opinion, based on the evidence, that the defendants have not established the defense of necessity. I conclude from the record that Farben, as a matter of policy, willingly cooperated in the slave labor program, including utilization of forced foreign workers, prisoners of war and concentration camp inmates, because there was no other solution to the manpower problems. As one of the defendants has put it, Farben did not object because "we simply did not have enough workers any longer." It was generally known by the defendants that slave labor was being used on a large scale in the Farben plants and the policy was tacitly approved. It was known that concentration camp inmates were being used in construction of the Auschwitz buna plant and no objection was raised. Admittedly Farben would have preferred German workers rather than to pursue the policy of utilization of slave labor. Despite this fact, and despite the existence of a reign of terror in the Reich, I am, nevertheless, convinced that compulsion to the degree of depriving the defendants of a moral choice did not in fact operate as the conclusive cause of the defendants' actions because their will coincided with the governmental solution of the situation and the labor was accepted by them to, and the only means of, maintaining war production.

Having accepted large scale participation in the program and,



in many instances, having exercised initiative in obtaining workers, Farben became inevitably connected with its operation with all the discriminations and human misery which the system of detaining workers in a state of servitude entailed. The cruel and inhumane regulations of the system had to be enforced and applied in the working of slave labor. The system demanded it. Efforts to ameliorate the conditions of the workers may properly be considered in mitigation, but I cannot accept the view that persons in the positions of power and influence of these defendants should have gone along with the slave labor practices. Those who knowingly participated in and approved the utilization of slave labor within the Farben organization, should bear a serious responsibility as being connected with and taking a consenting part in war crimes and crimes against humanity, as recognized in Control Council Law No. 10. I concur in the conviction of those defendants who have been found guilty under Count III, but, the responsibility for the utilization of slave labor and all incidental toleration of mistreatment of the workers should go much further and should, in my opinion, lead to the conclusion that all of the defendants in this case are guilty under Count Three with the exception of the defendants von der Heyde, Gattineau and Kugler. I, therefore, dissent as to this aspect of Count Three, and reserve the right to file a dissenting opinion with respect to that part of the Judgment devoted to Count Three.

I have signed the Judgment with these reservations, and I hand a copy of this expression to the Secretary General for the record.

30 July 1948



Paul M. Hebert
PAUL M. HERBERT
Judge, Military Tribunal VI

Concurring Opinion of Judge Herbert on Counts 1 & 5, Eng & German, filed 28 Dec 48

LOUISIANA STATE UNIVERSITY
LAW SCHOOL
BATON ROUGE, LOUISIANA

8 April 1949

FILED

11 May 1949

Sec. 100-1000000

100-1000000

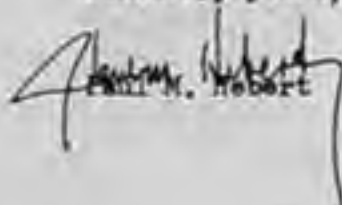
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Dear Dr. Russell:

Last December, the manuscript of my concurring opinion on Counts One and Five, and my dissenting opinion on Count Three were hastily prepared and several typographical errors slipped by in the process. I should like to request that the attached list of typographical corrections be authorized and made in any future copies released.

With kind regards, I am

Sincerely yours,


Paul M. Hebert

Dr. Howard H. Russell,
Secretary General,
Office of the Military Government(US)
APO 696A, U.S. Army,
Postmaster, New York, New York.

It is requested that the following typographical errors, appearing in the official signed copies of the concurring and dissenting opinions filed by the undersigned in Case No. 6 (the Farben case), be corrected:

DISSENTING OPINION:

- ¶ p. 8 - Line 12 from the top of page - "pre-requisite" should be "prerequisite."
- ¶ p.13 - Line 4 from bottom of page - "pre-requisite" should be "prerequisite."
- ¶ p.16 - Line 3 from top of page - "sub-contractors" should be "subcontractors."
- ¶ p.15 - Line 7 from bottom of page - "ereditable" should be "credible."
- ¶ p.18 - Line 6 from bottom of page - "under-nourished" should be "undernourished."

CONCURRING OPINION:

- ¶ p. 5 - third line from bottom of first paragraph - comma should be placed after "planned"
- ¶ p. 6 - second line from bottom of first paragraph - "notroious" should be "notorious."
- ¶ p.9 - third line under (a) - would be better not to have commas after "defendant" and after "Schmitz" - would read "Defendant Schmitz"
- ¶ p.11 - in quote- 4th line from bottom of quote - "wealty" should be "wealth."
- ¶ p.12 - in (c) - 4th line from top - better not to set off "ter Meer" in commas - would read "The defendant ter Meer"
- ¶ p.12 - in (c) - 1st line - better not to set off "von Schnitzler" in commas - would read "the defendant von Schnitzler"
- ¶ p. 23 - 6th line from top of page - "counter-evidence" should be "counterevidence."
- ¶ p.23 - 2nd line in (r) - "pre-meditated" should be "premeditated."
- ¶ p.43 - 8th line from bottom - take out one of the "to"
- ¶ p.48 - in quote beginning "...I told" - 4th line - "etcetera" should be "et cetera"
- ¶ p.48 - " " " " " " - 7th line from top - word "him" should be added - should read "I told him that there is"
- ¶ p.55 - 6th line from top of second paragraph - "Petroelum" should be "Petroleum"
- ¶ p.69 - 6th line from top of quote - "atart" should be "start"
- ¶ p.72 - 2nd line from top of last paragraph - "especialky" should be "especially."

It is requested that the following typographical errors, appearing in the official signed copies of the concurring and dissenting opinions filed by the undersigned in Case No. 6 (the Farben case), be corrected:

MIMED COPIES

DISSENTING OPINION:

- | | |
|-------------------------------|---|
| p.11, line 6 | p. 6 - Line 12 from the top of page -
"pre-requisite" should be "prerequisite." |
| does not affect
mimeo copy | p.13 - Line 4 from bottom of page -
"pre-requisite" should be "prerequisite." |
| p.21, last line | p.16 - Line 3 from top of page -
"sub-contractors" should be "subcontractors." |
| p.21, line 13
fr bottom | p.15 - Line 7 from bottom of page -
"creditable" should be "credible." |
| p.26, line 6 | p.18 - Line 6 from bottom of page -
"under-nourished" should be "undernourished" |

CONCURRING OPINION:

- | | |
|-------------------------------|---|
| p.5, line 17 | p. 5 - third line from bottom of first paragraph -
comma should be placed after "planned" |
| p.6, line 18 | p. 6 - second line from bottom of first paragraph -
"notroious" should be "notorious". |
| p.10, line 7 | p. 9 - third line under (a) - would be better not to
have commas after "defendant" and after
"Schmitz" - would read "Defendant Schmitz" |
| does not affect
mimeo copy | p.11 - in quote - 4th line from bottom of quote -
"wealty" should be "wealth." |
| p.13, line 8 | p.12 - in (-) - 4th line from top - better not to set off
"ter Meer" in commas - would read "The
defendant ter Meer" |
| p.13, lines 4,5 | p.12 - in (c) - 1st line - better not to set off "von
Schnitzler" in commas - would read "the
defendant von Schnitzler" |
| does not affect
mimeo copy | p.23 - 5th line from top of page -
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| p.26, line 5 | p.23 - 2nd line in (r) - "pre-meditated" should be
"premeditated". |
| p.49, line 9
fr bottom | p.43 - 8th line from bottom - take out one of the "to" |
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"etostera" should be "et cetera" |
| p.54 | p.48 - in quote beginning "...I told" - 7th line from
top - word "him" should be added - should
read "I told him that there is" |
| p.61 | p.55 - 6th line from top of second paragraph -
"Petroelum" should be "Petroleum" |
| does not affect
mimeo copy | p.69 - 6th line from top of quote - "atart" should be "start" |
| p.79 | p.72 - 2nd line from top of last paragraph -
"especialky" should be "especially." |

MILITARY TRIBUNAL NO. VI

CASE NO. 6

THE UNITED STATES OF AMERICA

-against-

CARL KRAUCH et al

FILED

28 December 1948

Secretary General
for Military Tribunals
Nürnberg, Germany

CONCURRING OPINION

By

JUDGE PAUL M. HERBERT

On

COUNTS ONE AND FIVE OF THE INDICTMENT



UNITED STATES MILITARY TRIBUNAL VI
PALACE OF JUSTICE, NURNBERG, GERMANY

THE UNITED STATES OF AMERICA

-vs-

CARL KRAUCH, HERMANN SCHMITZ,
GEORG VON SCHNITZLER, FRITZ GAJEWSKI,
HEINRICH ROERLEIN, AUGUST VON KNIERIEM,
FRITZ TER MEER, CHRISTIAN SCHNEIDER,
OTTO AMBROS, ERNST BUERGIN, HEINRICH
BUEFELFISCH, PAUL HAEPLIGER, MAX ILGNER,
FRIEDRICH JAEHNE, HANS KUEHNE, CARL
LAUTENSCHLAGER, WILHELM MANN,
HEINRICH OSTER, KARL WURSTER, WALTER
DUERRFELD, HEINRICH GATTINKAU, ERICH
VON DER HEIDE, AND HANS KUGLER,
officials of I.G. FARBEINDUSTRIE
AGTIENGESELLSCHAFT

Case No. 6

Defendants

CONCURRING OPINION

Counts One and Five Of The Indictment

I.

At the rendition of final judgment in this case on 29 and 30 July 1948, I expressed concurrence in the result reached by the Tribunal in acquitting all defendants under Counts One and Five of the Indictment (the aggressive war counts) but reserved the right to file a separate opinion because the judgment on these counts contains conclusions of fact and statements with which I do not agree and, in numerous respects, is at variance with my own approach in reaching the result of acquittal. This opinion is filed pursuant to such reservation.

In this proceeding involving the trial of twenty-three individuals indicted as major war criminals, it is important not only to pass judgment upon the guilt or innocence of the accused, but also to set forth an accurate record of the more essential facts established by the proof. The size of the record makes the latter difficult of achievement. As applied to the aggressive war

counts, while concurring in the acquittals, I cannot express agreement with factual conclusions of the Tribunal which, in my opinion, misread the record in the direction of a too complete exoneration and an exculpation even of moral guilt to a degree which I consider unwarranted. The record of I.G. Farbenindustrie, A.G., during the period under examination in this lengthy trial, has been shown to have been an ugly record which went, in its sympathy and identity with the Nazi regime, far beyond the activities of the normal business the defendants assert such action to have been. Action of the character in which most of the defendants, the responsible leadership of Farben, were engaged during the period of preparation for and during the subsequent waging of the aggressive wars of Nazi Germany cannot be condoned nor should its relationship to the Crimes against Peace committed by the Nazi regime be minimized. I reach the conclusion, however, that the individual defendants, under the proof, are not guilty of the Crime against Peace denounced by Control Council Law No. 10, regardless of how strongly the support and encouragement given by Farben and its influential leaders to ^{the} Nazi regime contributed, first, to making the war possible from the viewpoint of production and, secondly, to prolonging the war after it had been launched by Hitler's aggression against Poland.

An important factor in my concurrence in the result reached is that I feel the necessity for bowing to such weighty precedents as the acquittal by the International Military Tribunal of Schacht and Speer of the charges of Crimes against Peace; of the acquittal by Military Tribunal III of the leading officials of the Krupp firm on similar charges; and, the more recent precedent established by an international military tribunal in the French occupied zone in acquitting officials of the Roehling concern of the charges of participation in the planning and preparation of aggressive war. Such precedents, coupled with a most liberal application of the rule of "reasonable doubt" in favor of the defendants and added to a reluctance, because of the novelty of the Crime against Peace, to draw inferences unfavorable to a defendant in the all-important area of knowledge of the aim of aggressive war and specific intent to further such aim lead to the result of acquittal. I am concurring though realizing that on the vast volume of credible evidence presented to the Tribunal, if the issues here involved were truly questions of

first impression, a contrary result might as easily be reached by other triers of the facts more inclined to draw inferences of the character usually warranted in ordinary criminal cases. I do not agree with the majority's conclusion that the evidence presented in this case falls so far short of sufficiency as the Tribunal's opinion would seem to indicate. The issues of fact are truly so close as to cause genuine concern as to whether or not justice has actually been done because of the enormous and indispensable role these defendants were shown to have played in the building of the war machine which made Hitler's aggressions possible. The destruction of important Farben records at the direction of certain of the defendants has probably deprived the prosecution of essential links in its chain of incriminating evidence and leaves one with the feeling that a different result might possibly be called for if the complete Farben files were now available to the war crimes prosecutors.

On the all-important element of criminal intent or state of mind accompanying the acts and actions of the defendants, I have felt constrained to agree upon acquittal predicated upon the doubt as to whether the defendants actually knew and believed that their contributions to the armament of Germany constituted the crime of participating in the planning and preparation for initiation of a war which was to be aggressive in character. Beyond that I follow the implications of the acquittal of Speer as a precedent for the acquittal of the defendants of the charge of "Waging Aggressive War." That the defendants knew they were preparing for a possible war is certain. That their actions in this regard were not the normal activities of business men is equally clear. Farben participated in a complete transformation of the economic structure into one of military economy. The possibility of war was ever before them. But clear unequivocal proof of exact knowledge of the decision of the regime to initiate and wage wars of aggression is not established beyond reasonable doubt. Farben, under the leadership of these defendants, pursued a course of action which was proved to be in fact adverse to the cause of international peace in numerous respects; a course evidencing cavalier disregard of possible and probable consequences of their acts. Such conduct, carried out in a war-like atmosphere for a dictator who had manifested his war-like intentions in many ways, despite contradictory protestations of peace, is sufficiently reprehensible in its relation to the resulting holocaust of war as to cause me to feel that international law should be broadened so as to devise standards defining the criminality of

action of the character carried out by these defendants. However, I conclude that what has been proved is sympathy and support of the Nazi regime and participation in armament on a gigantic scale with reckless disregard of the consequences, under circumstances strongly suspicious of individual knowledge of Hitler's ultimate aim to wage aggressive war, but the proof does not meet the extraordinary standard exacted by the mentioned precedents, including the judgment of the International Military Tribunal.

Count Five charges the defendants with participation in a common plan or conspiracy to commit Crimes against Peace. In my view it has not been established beyond reasonable doubt that there existed a well-defined conspiracy on the part of these defendants to commit Crimes against Peace as here alleged. The proof rather shows individual action by the defendants who utilized the instrumentality of Farben in the performance of acts and actions in their individual spheres within Farben, but the character of the proof is such as to make it impossible to determine when, if ever, the defendants agreed on a common decision for concerted action to join an enterprise constituting Crimes against Peace, or when the defendants may be said to have joined such an alleged conspiracy. While there are broader concepts of the law of conspiracy that might be utilized to cover the action of certain of the defendants, we are met here with the fact that in this new field of international law the judgment of the International Military Tribunal dealt most conservatively with the concept of conspiracy in relation to the Crimes against Peace. While its view in this regard has been subjected to some criticism, it would seem to be applicable to the facts proven in this case as to the existence of any separate Farben conspiracy to commit Crimes against Peace. In my view, the proof likewise does not establish participation in the common plan for the initiation of wars of aggression as defined and limited in the judgment of the International Military Tribunal. This concurring opinion will, therefore, disregard the allegations of Count Five except to the extent that such allegations are necessarily included as a part of the allegations in Count One of the indictment.

Count One charges that the defendants, acting through the instrumentality of Farben, participated in the planning, preparation, initiation and waging of wars of aggression. Under the proof, the acts of these defendants could only fall in the sphere of preparation for and waging of aggressive war. The preparation for aggressive war with which these defendants are charged necessarily constituted part

of Hitler's master planning for aggressive war. It has not been shown that any defendant was in any way a party to the decisions for the initiation of any war of aggression. If any defendant is to be held criminally responsible it must, therefore, be because his acts constituted participation in the preparation or waging of aggressive war. It may be noted in passing that the term "aggressive war", as used in this concurring opinion, includes wars in violation of international treaties, agreements and assurances in accordance with the definition of Control Council Law No. 10; and, further, that the determination by the IMT that aggressive acts and aggressive wars were planned, and did occur, are binding on this Tribunal. (U.S. Military Government Ordinance No. 7, 18 October 1946, Article I.)

The record abundantly establishes a substantial participation by certain of the individual defendants who were members of the Vorstand of Farben, in the action of Farben in furthering the armament activities which constituted preparation for the aggressive wars launched by Hitler. The corporate defendant is not under indictment before this Tribunal. If a single individual had combined the knowledge attributable to the corporate entity and had engaged in the course of action under the same circumstances as that attributable to the corporate entity, it is extremely doubtful that a judgment of acquittal could properly be entered. Recognizing this central fact there is considerable logic in the argument that, as Farben did not run itself, someone should be held responsible for what Farben did.

Farben was not an enterprise dominated by a single influential leader. Its responsible managers were the members of its Vorstand. Farben was the instrumentality through which they acted in achieving a major part of the rearmament of Germany. Farben's contributions to the German war effort can hardly be overstated. After the advent and rise of Hitler and the consolidation of the National Socialist power, a vast reorganization in the economic life of Germany took place. With the cooperation of industry, the economic structure rapidly moved into a program of autarchy which by 1936 began to be almost completely ruled by considerations of military economy. The world sat by in fear as Germany, in disregard of the Treaty of Versailles which Hitler repudiated publicly, amassed the greatest striking military power ever assembled by an aggressor nation during time of peace. I. G. Farbenindustrie, A.G., a great chemical combine, with tremendous resources, staffed with skilled scientists and technicians of

superlative ability, during the period from 1933 to 1939, underwent an ominous transition from a giant institution serving the cause of peace to an even more powerful instrumentality to serve the rapidly developing cause of war. As will be shown in more detail, Farben was integrated in the governmental planning and preparation for war and became one of Hitler's greatest assets in the carrying out of his plan of aggressive war. The accomplishments of Farben were a substantial prerequisite for Hitler to proceed with his ^{notorious} ~~notorious~~ policies of force and aggression.

The substantial acts of participation by Farben in the preparation of Nazi Germany for war cannot be successfully denied. All armament is preparedness for war, and Farben was preeminent in the program of armament. Re-armament, of itself, is not a crime and whether this preparation or planning was known to have been for aggressive war is the main issue. The proof establishes that, with initiative and great efficiency, Farben participated in the planning and preparation of Germany's armament program in the all important chemical sector and in related fields of indispensable raw materials. It furthermore engaged systematically in numerous activities showing sympathy with and furthering the objectives and ideology of the Nazi regime.

The aims of conquest and suppression of other nations which animated the Hitler regime have been established by the IMT judgment, as have been the inhumane and criminal policies carried out by that regime in many victimized countries during the war and the determination of the regime to perpetuate the domination and suppression of other nations after the war. Farben's substantial role in creating Germany's tremendous war potential was a decisive factor in making possible the tactical and policy decisions of aggression whereby Hitler plunged the world into war; Farben actively and substantially participated in reaping the fruits of aggression by illegal participation in the spoliation of occupied countries; and Farben, owing to its special position, exercised its own initiative in making as early as June, 1940, concrete plans for the permanent economic exploitation of countries to be placed under Nazi domination after the anticipated victorious conclusion of the wars of aggression.

Farben knowingly participated in the secret armament program which was designed to achieve a degree of military might which would make Germany invincible. Farben largely created the broad raw material basis without which the policy makers could not have even seriously considered waging aggressive war.

Farben developed, planned and operated huge plant expansions, stand-by plants and facilities for the synthetic production of strategic and critical war materials, including such all important products as synthetic gasoline, oil, Buna rubber, nitrogen and light metals, predominantly as part of the military economy and as definite preparation for the possibility or "case of war." All this was done in closest cooperation with the top governmental and military agencies immediately charged with carrying out the program of preparation for aggression as established by the judgment of the IMT.

Farben's importance to the German war effort is perhaps best summed up in a statement attributed to Funk, Minister of Economics and Plenipotentiary General for War Economy and Schacht's successor in office. Funk was convicted of Crimes against Peace by the IMT. The defendant, Kuehne, reported to the defendant, Schmitz, concerning a meeting held in October of 1941 in the presence of a number of military and government dignitaries. According to Kuehne:

"At the conclusion of his long lengthy statement, regarding which I hope I will once more be able to report to you in person, Herr Funk said the following: He felt compelled yet to refer to the remarks made by Herr Fleiger* and by me. Naturally, coal, iron, guns and procurement of materials were necessary for waging war and the importance of the industries must not be underestimated. However, one thing he must establish, without the German I.G. and its achievements, it would not have been possible to wage this war. You can imagine I was overjoyed and expressed to Herr Funk my thanks in the name of the whole I.G."

The fact that the defendants knew that the program they were undertaking was part of Hitler's armament program, including many of its secret aspects, is too well established to admit of any controversy. The universal defense is advanced, however, that, as rearmament may be for defensive purposes, or for other legitimate aims in harmony with international law, as well as for purposes of aggression, the actions of the defendants do not constitute Crimes against Peace as defined in Control Council Law No. 10 and in the London Charter. Each defendant contends that, for lack of knowledge of Hitler's aggressive aims and intentions, he cannot be held responsible for his conduct because the state of mind required to accompany his action was not present. The defendants affirmatively assert that they thought they were expanding the military might of Germany on this vast scale for defensive purposes; that they did not actually

* Reich Coal Commissioner and member of Vorstand of Hermann Goering Works.

believe that Hitler would make war, though they feared it; that they thought Hitler was only "bluffing" and would find peaceful solutions for the territorial demands he so loudly proclaimed prior to the initial acts of aggression. They assert that they were misled by the contradictory nature of the Nazi propaganda.

We are thus brought to the central issue of the charges insofar as the aggressive war charges are concerned. Acts of substantial participation by certain defendants are established by overwhelming proof. The only real issue of fact is whether it was accompanied by the state of mind requisite in law to establish individual and personal guilt. Does the evidence in this case establish beyond reasonable doubt that the acts of the defendants in preparing Germany for war were done with knowledge of Hitler's aggressive aims and with the criminal purpose of furthering such aims.

In every criminal case the presence or absence of criminal knowledge or intent can only be established by weighing the sum total of the evidence; on this basis it may be found to have existed although the defendant denies it or it may be found not to have existed although the defendant asserts it. Knowledge, hence, must be proved by direct evidence or by circumstances warranting the conclusion that the defendant was informed or had knowledge that the authorities with whom he was cooperating were planning aggressive war. It is fundamental that knowledge may be imputed from acts, from positions held, from opportunities and channels of information available to individuals. But the sum total of the evidence must be convincing to the trier of fact to warrant the conclusion that proof beyond reasonable doubt is present. Furthermore, the knowledge required in Crimes against Peace is analogous to specific intent and great care must be exercised before finding that it exists beyond reasonable doubt with respect to any defendant.

After these preliminary statements, it will be of value to review, in summary first, some of the more significant items in the evidence relied upon by the prosecution bearing upon the question of the state of mind and, later, to review in more detail the comprehensive course of action in which the defendants, through the instrumentality of Farben, were engaged during the period under consideration.

The Criminal Intent or State of Mind

The extent of Farben's complete integration into a system of governmental planning and preparation for war, as will be later shown, and the extent of participation by certain defendants in formulating and executing policies on these

matters with the Nazi regime, present a picture of coordinated and sustained activity. From this general evidence alone, the prosecution contends, it could be properly concluded that the defendants, leading officials of Farben, were fully apprised of, and believed that Germany would ultimately wage aggressive war, if necessary, and that their activities were directed toward that end. However, in addition to a volume of evidence bearing upon the nature, scope, character and timing of Farben's activities, the evidence provides a number of particularly significant specific indications relied upon by the prosecution to show the state of mind of Farben's leadership. This specific evidence includes admissions, statements, letters, reports of conferences and other action which, taken together and joined with the general evidence, it is contended, should serve to dispel any reasonable doubt concerning the existence of guilty state of mind or criminal intent.

The following matters are deemed worthy of note. They by no means constitute a complete review of the evidence on the subject of knowledge.

(a) On 26 May 1936, after he had been appointed coordinator for raw materials and foreign exchange by Hitler, Goering held a top secret meeting with his advisory committee of experts. Defendant Schmitz attended as representative of Farben. It was a meeting at the highest level, composed of selected representatives of industry and of such top ranking officials as Keitel, Chief of Staff to the Minister of War; Under State Secretary Koerner of the Four Year Plan and Keppler, Hitler's economic advisor.

In opening the meeting, Goering emphasized the confidential and secret nature of the data to be discussed. He expressly declared that the figures about to be disclosed were to be treated as a state secret. He warned the participants that they were to see that notes did not fall into the wrong hands. A lengthy discussion of ways and means of improving the raw material situation ensued. It was frankly stated that the increased consumption of materials was due to the requirements of the Wehrmacht, including demands of the Navy. The importance of having an adequate supply of oil on hand for the case of war (A-Fall) was emphasized as was the necessity of developing synthetic production of oils. The report of the meeting states:

"Min. Pres. Goering: emphasizes that in the A-case (A-Fall) we would not, under certain circumstances, get a drop of oil from abroad. With the thorough motorization of army and navy the whole problem of conducting a war depends on this. All preparations must be made for the A-case so that the supply of the wartime-army is safeguarded."

The discussion moved to factories under construction and to the use of American processes. The report states:

"Gen. Dir. Dr. Schmitz: agrees to this method adopted after thorough discussion in order to utilize experience in enlarging factories."

"Min. Pres. Goering: indicates serious import reductions in the A-case (A-Fall) through which price probably unimportant. Rubber is our weakest point."

The serious tone of the meeting further appears:

"Min. Pres. Goering: After everybody has been given this survey the gentlemen are asked to cooperate in the work of ...

"The situation is not to be regarded as something fixed and unchangeable, but as a starting point for new measures to be taken, at the head of which is export. Proposals in all branches are expected from those present. Questions concerning domestic raw materials and substitute materials are emphasized again. It is emphasized that at any moment we might be confronted with a situation of unparalleled seriousness, which we must be in position to deal with.

"Everything has to be regarded from these points of view. The speed of armament must under no circumstances be impaired, on the contrary, even the interests of the factories themselves should be relegated to the background. An appeal is made to the idealism of industry. If perhaps great risks have to be taken now, nevertheless there is reason to expect that they will also someday have correspondingly great results. The establishment of Germany's liberty to rearm comes before all else. The fate of the individual plant is immaterial just now. After overcoming the present difficulties, ways and means will also be found to save the individual plants from collapse. In conclusion, those present are asked if anybody still wished to make a statement."
(Emphasis supplied)

The repeated reference to the case of war could hardly have failed to impress the hearers with the fact that the program under discussion was in deadly earnest with war a distinct possibility. The report states further with reference to ores:

"Min. Pres. Goering: Agrees with this. The important thing is to make it possible to convert to domestic production and smelting in the event of 'Case A' (Fall-A)..."

"Min. Pres. Goering: A program lasting several years is of no use for the Case 'A'. The fall in the currency of our ore suppliers has made the prices about 30% cheaper as against peace. What is necessary in connection with our ores is not to confine ourselves to small experiments but to pass over to large-scale operations, otherwise we will not have any production reserves in the event of 'Case A' (A-Fall)!"
(Emphasis supplied).

That Farben was being called upon to continue its participation in preparation of Germany for possible war under this program has been overwhelmingly proved. The Defense rightly asserts that, at that time, Farben still devoted a large part of its activity to the normal peace-time production and that considerations of autarky were also present in their raw materials planning. However, the demands of armament and military economy were even now being given a major emphasis. Farben, through Bosch, Chairman of the Aufsichtsrat at that time, made the defendant Krauch, available to Goering to assist in the performance of these tasks as outlined by Goering. The defense contends that this evidence covering this and other similar conferences and meetings is consistent with preparation for a possible defensive or legal war and that there was, in fact, no disclosure of any firm decision to launch or wage aggressive war.

(b) On 17 December 1936, Goering delivered a speech on the execution of the Four Year Plan before a group of leading industrialists. Goering had received and was in the course of executing Hitler's order that the German Army must be ready for combat in four years. Among those present there were no fewer than three top Farben leaders, Dr. Bosch, and the defendants Krauch and von Schnitzler. The importance of complete mobilization for armament in disregard of "the old laws of economics" was the theme. The necessity of becoming self-sufficient in food supplies and raw materials was stressed. A warlike tone persisted throughout the address. Among other things, Goering said:

"...The struggle which we are approaching demands a colossal measure of productive ability. No end of the re-armament can be in sight. The only deciding point in this case is: victory or destruction. If we win, then the economy will be sufficiently compensated. Profits cannot be considered here according to book-keepers' accounts, but only according to the necessities of policy. Calculations must not be made as to the cost. I demand that you do all to prove that part of the national wealth is entrusted to you. It is entirely immaterial whether in every case new investments can be written off. We are now playing for the highest stake. What would pay better than the orders for re-armament?" (Emphasis supplied).

In closing, Goering stated:

"...Our whole nation is at stake. We live in a time when the final dispute is in sight. We are already on the threshold of mobilization and are at war, only the guns are not yet being fired."

Krauch denies that he saw any indication of aggressive war in this speech. The prosecution, on the other hand, contends that this evidence indicates the intention

of the regime, when its strength would permit, to wage war if this should become necessary to achieve the policies of conquest and territorial aggrandizement being advocated by Hitler. A circumstance of no little importance in relation to this evidence is that, immediately after Goering's address, Hitler spoke, but his remarks on this occasion are not in evidence. The extent to which he may have revealed his ultimate aims to this group of industrialists on this occasion is thus not proven.

(c) On 22 December 1936, five days later, the defendant, von Schnitzler, at a meeting of Farben's Enlarged Dyestuff Committee, made a "highly confidential" report concerning the statements made by the Fuehrer and Goering of the tasks of German economy in the execution of the Four Year Plan. The defendant, ter Meer, was present. The Defense attempted to minimize the significance of this evidence, and argues that no significant disclosures were made by von Schnitzler to those in attendance. It is, however, indicative of the manner in which information relating to governmental policy was quickly disseminated within Farben, even below the level of Vorstand members.

In appraising the statements of Goering to outstanding German industrialists, the political events and governmental conduct as outlined by the IMT should be borne in mind. Military conscription had been in effect more than a year; over a year previously the Nazi government had openly repudiated the disarmament clauses of the Versailles Treaty; "on 7 March 1936, in defiance of that Treaty, the demilitarized zone of the Rhineland was entered by German troops." In the light of those events, these statements by Goering must have been considered more than bombastic utterances not to be taken seriously. Intelligent and well-informed industrialists, including the Farben representatives, must have considered the import of those words to be serious in view of the prevailing atmosphere in Germany, but it cannot be positively asserted the documentary evidence covering this meeting proves conclusively that plans for a war of an aggressive character were disclosed and discussed. Armament activities in such a political setting raise the highest suspicion of knowledge of the ultimate aim of aggressive war but under a most rigid standard of proof the benefit of doubt as to the inference to be drawn may be accorded to the defendants.

(d) Emphasis on speed appears to have been ever-present. On 15 June 1937, the defendant Kranch was present at a conference in Goering's office. He heard Goering state: "The Four Year Plan will do its share to create a foundation upon which preparation for war may be accelerated."

In the course of discussion, mention was made of the undesirability of shipping iron "...to so-called enemy countries like England, France, Belgium, Russia and Czechoslovakia."

The naming of these five countries is significant. France and Russia had aid pacts with Czechoslovakia. The classical German invasion road into France is through Belgium, and England's help to France was to be assumed.

Important events occurred during 1938 bearing upon the state of mind of the defendants.

(a) The DMF characterized the action against Austria by holding that Austria "was occupied pursuant to a common plan of aggression" and "...the methods employed to achieve the object were those of an aggressor. The ultimate factor was the armed might of Germany ready to be used if any resistance was encountered." The march into Austria on 12 March 1938 meant that Farben was now openly apprised that threats of aggression were being translated into deeds. The evidence goes beyond this to show that certain defendants were under no illusion but that a "short-thrust" into Czechoslovakia was a distinct possibility on the agenda of Nazi aggression. The day before the thrust into Austria, on 11 March, 1938, Farben's Commercial Committee met with the defendants, Schmits, von Schnitzler, Haefliger, Ilgner and Mann in attendance. As was usual before Farben's committee in those days, the mobilization question(M-question) was discussed. The defendant Haefliger reported on this meeting as follows:

"First item on the agenda of the meeting of the Commercial Committee of 11 March of this year was the 'M-question.'

"Let us call to mind for a moment the atmosphere in which this meeting took place. Already at 0930 the first alarming messages had reached us. Dr. Fischer returned excited from a telephone conversation and reported that the Gasolin had received instruction to supply all gas stations(Benzinstellen) in Bavaria and in other parts of Southern Germany towards the Czech border. A quarter of an hour later there came a telephone call from Burghausen according to which quite a number of workers had already been called to arms, and the mobilization in Bavaria was in full swing. In the absence of official information, which was made known only in the evenings, we were uncertain, whether simultaneously with the march into Austria which to us was already an established fact, there would not also take place the 'short thrust' into Czechoslovakia with all the international complications which would be kindled by it. The first thing I did was to ask at once for a connection with Paris to cancel my trip to Cannes(Molybdenum negotiations). At the same time, I suggested to Mr. Meyer-Kuester, who was already in Paris and to whom I talked by telephone, to watch developments closely, and to depart too early rather than too late. Furthermore, I requested him to induce Mr. Mayer-Wegelin, who also had already arrived in Paris to return the same evening.

"Under these circumstances of course the conference on M-matters took on highly significant features. We realized suddenly that - like a stroke of lightning from a clear sky - a matter which one had once treated more or less theoretically could become deadly serious, and furthermore, it became clear to us that the preparations which we had made up to now for the Gruensburg had to be considered rather defective after all. As I had up to now not sworn an oath on the M-matter, I heard only later, after I had sworn such an oath on 12 March in the Reich Economic Ministry, in greater detail about the steps we had taken, which of course I cannot discuss here in detail." (Emphasis supplied)

The Haefliger report states that a certain building construction project in Frankfurt had to be revised recognizing:

"...That the location Frankfurt, of course, would be from the beginning in the utmost danger does not need to be emphasized here. - All present were aware of the seriousness of the situation, and also of the fact that if the event happened Frankfurt could not be held in an organizational respect."

Farben's other acts during this period show that Farben not only considered that the "short-thrust" into Czechoslovakia might possibly occur, but that Farben based significant preparations of its own upon this possibility. The proof establishes that Farben planned to participate in plant operations in Czechoslovakia in the event of its absorption after the pattern of Austria.

(f) In April 1938, five months prior to the Munich Pact and immediately after the invasion of Austria, defendant Haefliger, during a visit to the aforementioned Keppler, one of Hitler's close economic advisers, took occasion "to sound him on the attitude of German authorities as to exerting influence on enterprises in Sudeten-Czechoslovakia." At that time, the Nazi-directed agitation over the Sudetenland was being heightened. Haefliger significantly notes:

"We also heard in Vienna from different sources that Czech enterprises are already beginning to dispose of some of their holdings in Sudeten-Czechoslovakia."

The prospective victims saw the next move rather clearly. Farben was willing to participate in subjecting Czechoslovakian enterprises to Nazi pressure.

(g) During the summer of 1938, when the world became increasingly fearful lest Germany would start war, Farben was extremely active in preparing its own program for the Sudetenland - a program predicated on their assumption that this territory would soon be annexed. On 16 September 1938, there was a discussion at the Vorstand meeting concerning acquisition of plants in the Sudetenland. A

letter from the office of Farben's Commercial Committee to all Vorstand members, dated 21 September 1938, transmitted a preliminary statement on the "Location of the Major Chemical Plants in Czechoslovakia." This report had been prepared by Farben's Political Economy Department and was furnished by Krueger of Farben to the Vorstand members because it related to discussions held at the meeting of the Vorstand of 16 September 1938.

(h) That these plans had been laid for some time is further shown by the fact that as early as May 1938 Farben developed plans for the training of personnel for future use in Czechoslovakia. On 17 May 1938 a conference of Farben officials made plans for the Nazification of the Sudetenland in case of its possible "Anschluss" or of its becoming "autonomous" and for preparing "a gradual financial strengthening of the Sudeten-German newspapers by advertising." The minutes and a summarizing report of this conference were submitted to the Commercial Committee at a meeting in which the defendants Gattineau, Hasfliger, Ilgner, Kugler, Schmitz, and von Schnitzler participated.

(i) On 23 September 1938, still before the Munich Pact, the defendant Kuehne wrote a letter to the defendants ter Meer and von Schnitzler acknowledging the "pleasant news" that the addressees (ter Meer and von Schnitzler) had succeeded in making the authorities appreciate the interest of Farben in the Aussig Plant, situated in the Sudetenland of Czechoslovakia, and noting that "you have already suggested Commissars to the authorities." The Commissars were the defendants Wurster and Kugler.

(j) On 29 September 1938, the defendant von Schnitzler addressed a memorandum to the defendants ter Meer, Kuehne, Ilgner and Wurster. He referred to successful negotiations with Keppler with reference to the Sudetenland. von Schnitzler states that "...all parties acknowledged that as soon as the German Sudetenland comes under German jurisdiction all the works situated in this zone and belonging to the Aussig-Union" must be managed by Commissars for the account of whom it may concern. The Aussig-Union was an important Czechoslovakian enterprise. The reference is to conferences which had taken place in the preceding week. von Schnitzler also refers to proposing Wurster and Kugler as Commissars. This exhibit makes it clear that certain defendants were contemplating a participation in the fruits of the absorption of Czechoslovakia.

(k) On 11 October 1938, after the Sudetenland had been taken over, the defendant ter Meer, in a letter to the Reich Economics Ministry concerning the location of Buna Plant No. 3, stated that the location should not be predominantly influenced by military considerations "now that immediate danger of war has been removed." He then refers to the possible location of Buna Plant No. 3 in Upper Silesia which "could not be considered until now because this area was considered as a troop concentration area against Czechoslovakia." (Emphasis supplied) That Farben was apprised of the possibility of the use of force thus is certain.

The Defense has placed considerable emphasis upon the importance of attendance at one of the so-called planning conferences referred to by the IMT, at which Hitler announced his intentions to a group of his closest collaborators. Haeder, who attended Hitler's Conference on 5 November 1937, contended before the IMT that he did not believe Hitler actually meant war. The IMT dismissed this contention based upon its ultimate conclusion of fact:

"The Tribunal is satisfied that Lieutenant Colonel Hossbach's account of the meeting is substantially correct, and that those present knew that Austria and Czechoslovakia would be annexed by Germany at the first possible opportunity."

From the fact that Farben was making such detailed plans, even to the point of selection of the specific personnel to run the Czechoslovakian chemical factories, it might be inferred that the Farben representatives participating in such plans knew of Hitler's decision to wage aggressive war against Czechoslovakia if it would not yield to Nazi threats of force. However, such conclusion cannot be said to be clearly established by the proof. Moreover, the Defense strenuously maintains that Farben was preparing for the possibility of a successful diplomatic coup to be achieved by Hitler under conditions falling short of aggressive war and that, as in the case of Austria, war did not in fact result from the Czechoslovakian crisis which ended in the Munich pact. According the benefit of a liberal construction of reasonable doubt to the defendants, it must be concluded that it is not proved that they, in fact, knew of Hitler's decision to wage aggressive war against Czechoslovakia as those present at the Hossbach Conference referred to by the IMT had been so specifically informed.

(1) In June of 1938, defendant Krauch, who had been loaned by Farben for a key position in Goering's office, went to Koerner of the Four Year Plan and to Goering and warned them both that the production figures and planning of Colonel Loeb, who was then Krauch's superior in Goering's Four Year Plan organization, were based

upon wrong data. To give such a warning may merely show Krauch's solicitude. But he further warned that it would be dangerous to plan for war on that basis. How impressed Goering was can be seen from the subsequent developments. An interrogation of Krauch, which is in evidence, is as follows:

"Q. Didn't it become apparent to you first in 1935, when the Wehrmacht exhibited great interest in your business, and later after you assumed your job with the four year plan in 1936, to increase the chemical capacity of Germany, that the Nazi government was on the road to war?

"A. I had the feeling that they were going to war, as Dr. Bosch told me in June, 1938, and that was when I went with the wrong figures of Loeb to Goering and said to him we can't go to war because the figures are all wrong. We will lose the war on this basis.

"Q. When the wrong figures which you submitted to Goering were corrected to the extent where they reached the level that Keitel earlier believed they were, then you must have believed that they were going to war?

"A. I must say today, yes."

Krauch, however, in his testimony before the Tribunal strenuously denied any actual knowledge or belief of plans for the waging of an aggressive war.

(a) Krauch's visit to Goering resulted in his views being accepted by Goering. Thereafter Krauch submitted to Goering his proposals concerning the authority that he (Krauch) should have to carry out his plans to expand facilities for production. On the basis of Krauch's recommendations he was eventually appointed General Plenipotentiary for Special Problems of Chemical Production. Field Marshal Keitel objected to Krauch's taking charge of expanding production of gunpowder and explosives, one ground being that the holder of the position would have accurate knowledge of Germany's military strength, as planned strength was a simple calculation from information such person would receive. This difficulty was smoothed out in conferences with representatives of the Wehrmacht following Krauch's assurances of industry's cooperation. Facility expansion for the entire field of gunpowder, explosives, intermediary and preliminary products was entrusted to Krauch. He drew up the "Military Economic New Production Plan" of 12 July 1938 and the subsequent Rush Plan of 13 August 1938. He participated in their execution thereafter during the period of preparation and throughout the war. I cannot agree with the implications of the majority view that the position held by Krauch was relatively unimportant and at a low level. He was a top scientist of Farben. One who could challenge the correctness of production

achievements upon which Keitel relied and have his view sustained by Goering did not hold an unimportant position. The entire record of Krauch's activities leads me to the conclusion that the action of Farben in making him available to Goering was one of Farben's greatest contributions to the Nazi armament effort, to the mutual advantage of the Reich and Farben. One may participate in the preparation for aggressive war in collaboration with a Goering as well as with a Hitler. From Krauch's position and close association with Goering, it may be strongly suspected that he may have received much detailed information concerning the plans that were under way, but it cannot be said that Krauch's knowledge of positive decisions of the regime to wage aggressive war has been shown by convincing proof beyond reasonable doubt though the contrary inferences from the evidence are exceptionally strong.

(n) Shortly after the acquisition of the Sudetenland, when the regime found it politic to make public utterances of peace, Krauch, on 14 October 1938, attended a conference in the Reich Air Ministry at which Goering addressed his collaborators in the armament program. The report states:

"General Field Marshal Goering opened the session by declaring that he intended to give directives about the work for the next months. Everybody knows from the press what the world situation looks like and therefore the Fuehrer has issued an order to him to carry out a gigantic program compared to which previous achievements are insignificant. There are difficulties in the way which he will overcome with utmost energy and ruthlessness.

"The amount of foreign exchange has completely dwindled on account of the preparation for the Czech Enterprise and this makes it necessary that it should be strongly increased immediately. Furthermore, the foreign credits have been greatly overdrawn and thus the strongest export activity - stronger than up to now - is in the foreground. For the next weeks an increased export was first priority in order to improve the foreign exchange situation. The Reich Ministry for Economy should make a plan raising the export activity by pushing aside the current difficulties which prevent export.

"These gains made through the export are to be used for increased armament. The armament should not be curtailed by the export activity. He received the order from the Fuehrer to increase the armament to an abnormal extent, the air force having first priority. Within the shortest time the air force is to be increased five fold, also the navy should get armed more rapidly and the army should procure large amounts of offensive weapons at a faster rate, particularly heavy artillery pieces and heavy tanks. Along with this manufactured armaments must go; especially fuel, rubber, powder and explosives are moved into the foreground. It should be coupled with the accelerated construction of highways, canals, and particularly of the railroads.

"To this comes the Four Years' Plan which is to be reorganized according to 2 points of view.

"In the Four Years' Plan in 1st place all the constructions which are in the service of armament are to be promoted and in 2nd place all the installations are to be created which really spare foreign exchange.

...

"The Sudeten Land has to be exploited with all the means. General Field Marshal Goering counts upon a complete industrial assimilation of the Slovakia. Czech and Slovakia would become German dominions." (Emphasis supplied)

Such unequivocal evidence of a vastly increased armament program tended to belie the public utterances of peace made by Hitler after Munich, but again it cannot be said that the extent of the armament here involved shows actual knowledge of plans for aggressive war.

(c) While strong inferences unfavorable to the defendants may also be drawn from the voluminous evidence showing knowledge of the great intensification of the armament program during 1939, again, the standard of proof beyond reasonable doubt is not met. Out of this evidence two examples may be quoted. There is in evidence an official report covering an inspection trip by Army Ordinance, in February of 1939, which was found among Krauch's office files and could not have escaped his attention at the time, for it deals with the goal of his own Rush Plan in relation to the requirements of the Wehrmacht. Those requirements are estimated in great detail, including gunpowder needs of the Army; gunpowder requirements for machine guns and other guns on the West Wall; requirements for the Armored Corps or Panzer Units; requirements for the fighter and bomber aircraft of the Luftwaffe, requirements for the Navy. The whole tone of this report is consistent only with continuance of the objective of preparation for the eventuality of Hitler's policies leading to war. The report indicates that the requirements were for twenty to thirty corps of fighting troops, or an army of between 1,200,000 and 1,800,000 men.

On 31 January 1939, a report was submitted to Goering from the High Command of the Army with copies to defendants Krauch and Schneider, outlining the necessity of "obtaining of an immediate decision by the highest authority to give the mineral oil expansion top priority in the rearmament program as regards materials and financing."

The mineral oil expansion plan referred to had also been drawn by Krauch and provided for expansion in the total increase of mineral oil from 2,800,000 tons per year to 11,300,000 tons per year.

(p) Unrestricted collaboration between Farben and the Reich in the most detailed matters has been shown, and there are many instances supporting inferences unfavorable to the defense. For instance, a letter of May, 1939, from Farben's Vermittlungsstelle W to the Military Economic Staff gives information concerning the location and production capacity of English stand-by plants for the production of nitrogen. The accompanying report gives the production capacity of the English plants and the letter significantly states that they should "if the above estimate of capacity is correct, probably be able to cover the entire requirements of primary nitrogen of the British plants for the production of highly concentrated nitric acid, even should the Billingham Plant be put out of action." (Emphasis supplied).

This was in May of 1939, after the invasion of Bohemia and Moravia and during sped-up preparation preceding the invasion of Poland. A copy of the letter went to the defendant Krauch.

(q) The defendant von Schnitzler's pre-trial affidavits and interrogations, contain some of the most damaging evidence on the subject of state of mind of the defendants.

Under a ruling of the Tribunal, in which the undersigned did not concur, the effect of von Schnitzler's pre-trial statements is limited to von Schnitzler himself as he did not take the stand to testify. von Schnitzler said:

"Q. When was the order putting the plans into action issued?

"A. All the German industries were mobilized in summer 1939 and in summer 1939 the Wirtschaftsguppe Chemie issued an order that the plans for war were in action. In June or July 1939 I.G. and all heavy industries as well knew that Hitler had decided to invade Poland if Poland would not accept his demand. Of this we were absolutely certain and in June or July 1939 German industry was completely mobilized for the invasion of Poland."

The defendant von Schnitzler has also testified in an early affidavit that in about July 1939 the competent Reich authorities had directed that the Ludwigshafen/Oppau Plant would have to be closed down because of its proximity to the French border. This direction by Dr. Ungewitter, of the Economic Group Chemical Industry, by itself was ample indication of the imminence of war in July of 1939. Among the defenses is the contention that aggression from the East was feared, yet here is evidence of directions issued in July of 1939 (following Hitler's decision on specific plans against Poland) to move an important part of

production from the West danger zone. The prosecution argues, not without reason, that plans for a "defensive war" stressed by the defendants must have contemplated the situation which would result if Western nations should take the field to stop Hitler's aggression. von Schnitzler further stated in one of his early affidavits that Ungewitter had actually informed him of Hitler's determination to attack Poland. However, in a later affidavit, von Schnitzler (who was subjected to unmerciful pressure to the point of ostracism by his colleagues following his earlier statements) said:

"...I am now doubtful if Dr. Ungewitter actually said that Hitler was determined to attack Poland. He could not have known this then. However, since he was the link between the government and the chemical industry, I knew he was speaking on behalf of the Four-Year Plan concerning the closing down of Ludwigshafen/Oppau Plant and I was very impressed by the manner in which he spoke. When he additionally expressed himself to the effect that the international situation was grave and that it was quite possible there could be a war with Poland, which would involve France and England, I probably read into his statement that he said Hitler was determined to attack Poland."

One may surmise that much knowledge was acquired by persons in the positions of these defendants without their being specifically told. Certainly the defendant von Schnitzler, if his statements are to be believed, in July 1939 thought that Hitler would possibly attack Poland. His attempted explanation is based upon his expectation that a threat of force would be effective against Poland as it had been against Austria and Czechoslovakia. According to von Schnitzler's own words:

"...Moreover, I thought Hitler's foreign policy of bluff backed by the strong fist would probably cause Poland to give in to his demands. However, I was a very worried man, particularly after the invasion of Prague March 1939, since I felt that England, France and America were bound to take a stiffer attitude to Hitler's words and actions, and that ultimately Hitler's policy would bring Europe to war and ruin." (Date added for identification).

Concerning the manner in which mobilization was carried out in the summer of 1939, von Schnitzler has stated:

"Since the peaceful invasion into Austria the whole German country practically was on the foot of mobilization.

"This state of things became even more accentuated, when Hitler had entered into Prague and preparations for a campaign against Poland were started. Since July 1939 many of our employees and particularly the officers of the reserve of the so-called new army were called to their regiments and lined upon the Polish frontier.

"Simultaneously the industry was mobilized. Mobilization-plans, what in the case of war was allowed or ordered to be produced, had a long time ago been prepared.

"These plans, which beginning with 1934, had been made up by individual firms in close team-work with Wirtschaftsgruppe Chemie and the competent ministries - became effective in such a way that Wigrü returned them to the individual firm with his/its approval stamped on them."

In a subsequent statement he supplements this merely as follows:

"...The mobilization (in the German 'Mobilmachung') had been prepared, both personnel and war materials being mobilized in a certain sense, but the order placing the mobilization plans in final effect was not given until war broke out, as I have been informed since 1945...." (Emphasis supplied)

The affidavit of the witness Ehrman states:

"The main topic in the conversation of the responsible persons of the Economic Group Chemistry used to be, in the course of the summer 1939, the tension in the international situation....

"I remember that during these conferences several meetings took place between Dr. Ungewitter and Herr von Schnitzler. In connection with the discussions about the imminent war, Dr. Ungewitter also made the remark that the war with Poland will most probably not begin before the harvest has been collected i.e. not till September 1939."

At another point von Schnitzler stated:

"Even without being directly informed that the government intended to wage war, it was impossible for officials of I.G. or any other industrialists to believe that the enormous production of armaments and preparation for war starting from the coming into power of Hitler accelerated in 1936 and reaching unbelievable proportions in 1938 could have any other meaning but that Hitler and the Nazi government intended to wage war come what may. In view of the enormous concentration on military production and of the intensive military preparation, no person of I.G. or any other industrial leader could believe that this was being done for defensive purposes. We of I.G. were well aware of this fact as were all German industrialists and on a commercial side, shortly after the Anschluss in 1938, I.G. took measures to protect its foreign assets in France and the British Empire."

The majority opinion concludes that von Schnitzler's affidavits are not entitled to great weight because he was mentally upset and after numerous interrogations, in the view of the majority, was saying what his interrogators obviously wanted to hear. The case was tried on the theory that von Schnitzler's affidavits would be evidence only against him if he should refuse to testify in his own behalf. The ruling of the Tribunal in this regard was tantamount to an open invitation to him to exercise his privilege of not testifying in the interest of his co-defendants. Its result was to deprive the Tribunal of the opportunity through the examination of von Schnitzler in open court to determine his credibility and to judge more

intelligently what weight should be attached to these pre-trial statements. I disagree with this erroneous procedural ruling of the Tribunal and have previously expressed my dissent therefrom based on the provisions of Military Government Ordinance No. 7. But the ruling was made early in the presentation of the evidence for the defense and the defendants, relying on the ruling, may possibly have been led into not presenting additional counter-evidence. Justice requires, therefore, that the ruling be respected for the purposes of final judgment, as the strategy of the case was fashioned on that theory. There remains the question of the weight to be attached to von Schnitzler's statements as evidence against von Schnitzler himself. Being deprived of the benefit of any examination of this defendant in open court and faced with his attempts at correction and retraction, I conclude that the incriminating statements made by von Schnitzler should not be accorded weight sufficient for a conviction in his case. I reach this conclusion not without misgivings. In all pre-trial interrogations von Schnitzler apparently talked so willingly and his statements, obviously not under duress, were so complete as to raise question as to the extent to which he would retract or repudiate them upon final exhaustive examination by counsel before the Tribunal. But in the present state of the record, I do not feel warranted in expressing dissent as to the acquittal of von Schnitzler on the basis of his affidavits and interrogations.

(r) Following the invasion of the remainder of Czechoslovakia in March 1939, Hitler's pre-meditated policy of aggression had become a proven reality. The defendant ter Meer has stated:

"The first time I really had the feeling that our foreign policy was in no way in order was when German military forces were used to occupy Czechoslovakia in March 1939. This shocked me deeply, the more so as the question of the Sudetenland had been solved at Munich. I felt the NSDAP had now started Germany on a very dangerous road. I felt this was a breach of an international agreement, the Munich Pact, and an aggressive act against a country in whose affairs we had no right to interfere. This shocked me, especially since the story brought out in the German newspapers concerning the visit of the Czechoslovak President Hacha with Hitler did not look altogether natural to me."

ter Meer has further stated:

"I considered at that time the foreign policy of the Nazis from this time on to be gambling and a clear course of criminal speculation. ..."

But ter Meer maintains that he was nevertheless relieved at information coming to him from other sources that Hitler would not go to war and would accept a reasonable solution of the Polish corridor question. When considered in the light of the sum total of the evidence, it seems clear that ter Meer believed Hitler would be able to dictate a solution without the necessity of fighting for it. But Farben did not slacken its activities in preparing the military might which would make such aggression possible. The defendants cast their lots with Hitler no doubt fearing that the continuation of Hitler's policies of conquest again manifested in the seizure of Bohemia and Moravia might eventually lead to war. There was no unwillingness to gamble on the outcome though the probability of war was becoming clearer with each aggressive act.

(a) Krauch has given indication of his state of mind. In a report of the General Council of the Four Year Plan, dated 28 April 1939, Krauch concluded:

"When on 30 June 1938 the objectives or the increased production in the spheres of work discussed here were given by the Field Marshal/Goering/, it seemed as if the political leadership could determine independently the timing and extent of the political revolution in Europe and could avoid a rupture with a group of powers under the leadership of Great Britain. Since March of this year there is no longer any doubt that this hypothesis does not exist anymore...."

"It is essential for Germany to strengthen its own war potential as well as that of its allies to such an extent that the coalition is equal to the efforts of practically the rest of the world. This can be achieved only by new, strong and combined efforts by all of the allies, and by expanding and improving the greater economic domain corresponding to the improved raw material basis of the coalition, peacefully at first, to the Balkans and Spain.

"If action does not follow upon these thoughts with the greatest possible speed, all sacrifices of blood in the next war will not spare us the bitter end which already once before we have brought upon ourselves owing to lack of foresight and fixed purposes."

By 1939 Hitler's aggression and Hitler's obvious preparations for further aggression, which Krauch calls "political revolution," had led to an increasing realization by various countries of the imminent danger in which they were and at last to a growing movement to stop the aggressor. Krauch, in keeping with the Hitler propaganda line, referred to this as Germany's being encircled. Such distortion of the historical truth cannot be accepted but the cited evidence does not clearly establish a positive knowledge of plans to wage aggressive war.

Krauch testified that in the summer of 1939, following the invasion of Bohemia and Moravia, he was invited to visit Goering on the Island of Sylt. He states that he told Goering that he was under the impression that the Munich Pact was

not being kept since Germany had invaded Czechoslovakia and that from foreign sources Krauch had gained the impression that foreign countries would not countenance any "further political entanglements" and that "they would make war on us." Krauch further stated that the motto "stop the aggressor" could be seen in all the newspapers. Krauch told Goering that if Germany had a war with Poland and Russia, France and England would fight on the side of those countries. Krauch testified that Goering said, "you don't have to worry about a war; there won't be any war." This testimony is further revealing in that it indicates the defense's conception of a "defensive war." What is referred to as defensive war, are "the political entanglements" which would result from further German acts of aggression; but it is not positively shown that it was known that such additional acts of aggression would be pushed to the point of aggressive war if resistance were encountered.

(t) Of no little significance is the fact, as the evidence conclusively shows, that Farben in the summer of 1939 took careful steps on its own initiative to cloak its assets abroad in anticipation of war. It also prepared a list of the most important chemical plants in Poland. It is possible, as the defense argues, that the cloaking of assets abroad was a business precaution not based upon definite knowledge that the decision had been made to wage aggressive war. It is also possible that the listing of the chemical plants in Poland was without such specific knowledge of plans for aggressive war. The doubt on these matters, despite the inferences of knowledge of further possible acts of aggression which the evidence, is resolved in favor of the defendants.

(u) A credible witness, Hans Wagner, employed in Farben's Military Liaison Office (Vermittlungsstelle W) summarizes the knowledge which he, a subordinate employee, had, as follows:

"Owing to these preparations I was in no doubt in the middle of 1939 that Germany would wage an aggressive war. I believe I can say that all my colleagues at the Vermittlungsstelle W were of the same opinion. Several facts caused me to reach this conclusion.

"The fact that several of my acquaintances were suddenly inducted, the fact that other acquaintances were not discharged after the usual period of service, but remained with their units, putting into operation the mobilization plans of the individual plants, especially, as already mentioned before, of Ludwigshafen, the commencement of operation of the stabilizer plant in Wolfen at the end of 1938/ beginning of 1939, increase in the production of diglycol which was being used for explosives, the interest which was being shown by the Wehrmacht in direct mustard gas (Kirekt-Loet), to be produced in Gendorf.

"Judging by the overall political situation I could not assume that war would be declared on us by other countries in the year 1939. I received that impression through occasional discussions with officers, and officials of the German Wehrmacht on the subject of patent and license questions; I was given various intimations on the armaments situation in non-German countries. This always occurred when we had an opportunity of discussing the possibility of German patents being released for publication. One could conclude from this that no special preparations for war were being made in foreign countries.

"Furthermore, in the Vermittlungsstelle W, I was able to read foreign newspapers which were banned in Germany, and which were made available to the Counter-Intelligence Officer of the Vermittlungsstelle W, Dr. Diekmann, by the Gestapo and the Security Service of the SS, and which had to be returned to them. From these newspapers I gathered that foreign countries did not consider waging war at that time.

"Through my acquaintanceship with various officers of the Wehrmacht, which was not based on personal friendship, but rather on purely professional collaboration, I learned about troop movements to the East and the West before the outbreak of war. I also considered this an indication for aggressive war, as well as the experiments and developmental work of the I.G. with the Wehrmacht."

In his testimony before the Tribunal Wagner explained the existence of the circumstances causing him to reach that conclusion:

"I would like to give you some more detailed information as to what led me to this assumption. Because of my activities in the Vermittlungsstelle W in the field of development work, which was carried on by the Wehrmacht in collaboration with the I.G., and also in connection with my work on patent questions, I had repeated occasion to discuss matters with officials and officers of the Wehrmacht. These discussions generally took place in the offices of the Wehrmacht, not in my offices. It frequently happened that in addition to the actual subject of the discussion other matters were talked about which did not directly belong to my professional activities. This was done confidentially. Very often I could not avoid being a witness in the conversations carried on by numbers of officers or that I was present during telephone conversations, which these gentlemen carried on these occasions. In the course of a number of weeks, I learned that certain troop movements were going on, but I could not clearly learn their exact plan. I could not learn what their exact aim was. Furthermore I learned about more of these troop movements on the basis of certain development work which was carried on by the Wehrmacht in collaboration with I.G. Certain tests were to be carried out with I.G. products, but they had to be postponed because the formations which were necessary for the carrying out of these tests had changed their home station for unexplained reasons.

"Beyond that, I also recall that tests of smokebuoys for the Navy had to be postponed because of the fact that the units were transferred. I think it is necessary for me to add that to my affidavit."

No substantial qualification was made on cross-examination. From testimony of this character, there is the strong suspicion that the sources of

confidential knowledge and information available to and relied upon by persons holding the elevated positions of Vorstand members gave them at the very least the same amount of knowledge as could be acquired by the witness Wagner. Farben - and that means in the first place the members of the Farben Vorstand - had at their disposal their own far-flung intelligence system, employed for and capable of judging the course of events in many sections of the globe; it is difficult to believe that such smoothly operating intelligence work could have failed to detect the meaning of events within Germany in the summer of 1939.

However, the proof does not positively establish that members of the Vorstand of Farben actually knew that aggressive war would be waged though its possibility must have been a constant consideration with them.

The prosecution has never advanced the contention in this case that there existed common knowledge throughout Germany of Hitler's plans for the waging of aggressive war. On the contrary, the prosecution has explicitly denied any such contention relying rather upon allegations to the effect that these defendants by virtue of their positions within Farben and by virtue of the special knowledge which they possessed arising out of the tasks with which they were charged were in a far better position than the ordinary German citizen to appraise and determine the significance of the course of action in which they were engaged. Political events which were matters of common knowledge in Germany, including the promulgation of the program of the Nazi party, and successive aggressive acts, were relied upon not for the purpose of showing that this evidence, of itself, established the necessary criminal intent but rather as the basis for proper evaluation of the significance of the special knowledge which the defendants are alleged to have had. Affidavits, statements, and testimony from several defendants refute the assertions developed at length in the judgment of the Tribunal indicating that these defendants seriously believed in the public protestations made by Hitler expressing a love for peace. The defendants became increasingly skeptical concerning Hitler's ultimate aims. The evidence rather strongly indicates that all defendants feared the possibility of war and important action of the corporate instrumentality, Farben, was based upon the possibility of war. The non aggression pacts, emphasized in the Tribunal's judgment, constitute separate moves in the establishment of the European Axis, and rather than being indicative of an intention to maintain peace, intensified the prospect of war, and must have been so considered by the defendants. For example, the non aggression pact of 23 August 1939 between Germany and Russia was widely

accepted as increasing the possibility for further aggression leading to aggressive war. The position of these defendants in regard to political events in Germany prior to the invasion of Poland is in no sense the same as that of the average citizen of Germany, professional man, farmer, or industrialist, as referred to in the judgment of the Tribunal. But the evidence is sufficiently close that, despite the positions of the defendants which meant they were more able to appraise the true meaning of the events, the doubt is to be resolved in their favor.

II.

The foregoing resume of certain specific items of evidence bearing upon knowledge and criminal intent, selected from the vast amount of evidence presented to the Tribunal by the prosecution, by no means does justice to the voluminous record. It is important to review in more detail a variety of the activities of Farben showing its participation in and identity with the rearmament and war preparation of the Nazi regime. The indictment alleges that the individuals acted through the instrumentality of Farben in committing the crimes as alleged. The development and corporate characterization of Farben as disclosed by the record are presented as the bases of better appraising the positions of the defendants within Farben.

Origin and Development of Farben

The history of Farben is virtually the developmental record of the chemical industry in Europe. In 1904 the first move toward combination of several German enterprises occurred with the formation of two "Interessen-Gemeinschaften" (communities of interests), one including Bayer, Aktiengesellschaft fuer Anilinfabrikation and Badische Anilin & Soda Fabrik, the other Casella and Meister Lucius & Bruning.

On 9 December 1925, Badische changed its name to the present designation of "Interessen-Gemeinschaft Farbenindustrie Aktiengesellschaft" and, with five other leading chemical firms of Germany, merged into a new corporation (Farben) under that title. In September 1926, the consolidation emerged with a combined capital structure of 1.1 billion Reichsmarks, more than three times the aggregate capital of all other chemical concerns of any consequence in Germany, and assumed a position of undisputed predominance in the field of German chemistry.

From these beginnings, Farben steadily expanded its plants, the scope of its production, and its economic influence. By 1940 it owned or held participating interests in more than four hundred firms in Germany and about five hundred abroad (of which forty-eight were located in the United States), and it controlled a great number of patents (twenty-eight thousand foreign registrations) in all important spheres of chemical production throughout the world.

At the peak of its activities, Farben and its subsidiaries, including Dynamit A.G., showed an annual turnover of four billion marks. Concerning the internal corporate structure and functioning of Farben, the following should be noted:

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The Aktiengesellschaft - ("A.G.") similar to an American Stock Corporation, has two governing bodies, one charged with general supervision, the other with actual management. One is called the "Aufsichtsrat" (often translated as "Supervisory Board of Directors"), the other the "Vorstand" (often translated as "Managing Board of Directors"). Taken together, the two boards exercise the ordinary functions of a Board of Directors.

"Interessen-Gemeinschaft" (I.G.) means, in literal translation, a "community of interests," usually crystallized in a formal agreement between two or more business firms providing for mutual adherence to its provisions governing such matters as pooling and sharing of profits, division of markets, control of prices, coordination of production and distribution, research, patent practices, etc., etc. An outstanding example was the combine, between 1916 and 1925, of eight major German chemical firms, often referred to as the "old I.G.," which eventuated in the formal merger of I.G. Farben A.G. on 9 December 1925.

Farben's Managerial Organization and Delegations

The Aufsichtsrat:

The period of Farben's corporate existence with which this inquiry is concerned was characterized by (a) a decrease in the numerical composition of its governing boards and (b) an increase in the number and variety of subordinate groups within those bodies, to which great measures of discretionary authority and executive duties were delegated.

All or a great number of the leading personalities of its predecessor firms were placed on one or the other of the boards, as a result whereof the first Aufsichtsrat comprised fifty-five members and the Vorstand eighty-two. As these bodies were too cumbersome for effective supervision and management of the new corporation, smaller select groups were constituted from each board to perform most of the duties with which each was charged.

The Vorstand:

Original Vorstand Working Committee(Arbeitsausschuss):

The Vorstand in 1926 comprised over eighty members. From its membership a "Working Committee" of twenty-six was selected, pursuant to the By-Laws, to undertake the actual management of the corporation, and continued to function as its responsible management until April 7, 1938, when it was abolished in conformity with the statutory reform of 1937 which did not sanction such delegation of authority and function by the Vorstand.

The following defendants were members of the Working Committee, to-wit: Krauch(1929-1938); Schmitz (1926-1938); von Schnitzler (1926-1938); Gajewski(1929-1938); Hoerlein (1931-1938); von Kieriem (1931-1938); ter Meer (1926-1938); Schneider (1937-1938); Buetafisch (1933-1938); Ilgner (1933-1938); Kuehne (1926 - 1938); Mann (1931-1938); Oster (1929-1938); Wurster (1938); Gattineau(1932-1935).

The Reorganized Vorstand(1938):

With the passing of the Working Committee, the position of deputy Vorstand member was abolished; the numerical composition of the Vorstand was reduced to less than thirty, and membership restricted to persons actively participating in the management and direction of Farben. The roster of the new Vorstand was made up largely of the old Working Committee, the fifteen defendants listed above, except Gattineau, and five other defendants, to-wit: Ambros, Buerger, Haefliger, Jaehne and Lautenschlaeger, all of whom served until 1945. Schmitz was chairman from 1926 to 1945.

Vorstand Duties and Responsibilities:

The revised articles of incorporation adopted by Farben in 1938 provided(Article III par. 11(1)) that the Vorstand "shall conduct on its own responsibility the business of the Corporation in such manner as the welfare of the enterprise and of its employees as well as the general utility of the people and of

the nation demand it." Defendant Krauch summarized the managerial structure of Farben as follows:

"After 1937, the Aufsichtsrat played no part in the management of I G affairs. I know of no one instance in which the Aufsichtsrat disapproved of or disputed Vorstand activities. The Vorstand was in complete command of and entirely responsible for all I G business."

From the above, it appears that the Vorstand of Farben possessed plenary powers in its corporate management.

The mechanics of operating some four hundred business enterprises within Germany and five hundred foreign adjuncts required decentralization of the Vorstand functions. This was accomplished by the creation of a pyramid of Committees, Works Combines, "Sparten," Commissions and Conferences with the "Central Committee" at the apex. The latter occupied a position comparable to the executive committee of an American corporation.

Special Assignments of Vorstand Members:

In addition to the over-all responsibility imposed upon all members of the Vorstand by German Law, Farben's charter, and the Vorstand By-Laws, each member in practice, was assigned a specific field of major activity in which he was charged with special responsibilities on behalf of the entire body. These assignments, generally speaking, fell in either the "technical" or "commercial" categories and qualified the member as a "leader" in his field. A brief summary of these specialized activities will aid in tracing the personal activities of each defendant in relation to the respective charges.

The "Central (Executive) Committee," from 1930 to 1935 was the active wheel within a wheel of the "Working Committee" in the Vorstand. With the death of Carl Duisberg in 1935, defendant Schmitz succeeded to the dual capacity of chairman of the Vorstand and the Central Committee. Thenceforth, the Central Committee dealt principally with personnel, particularly selection of "Prokuristen" and higher officials (persons possessing general power of attorney, a practice quite general in German business administration). This Committee survived the abolition of the Working Committee in early 1938, until the collapse in 1945. The following defendants were members during the time indicated, to-wit: Krauch (1933-1940); Schmitz (1930-1945); von Schnitzler (1930-1945); Gajewski (1933-1945); Hoerlein (1933-1945); von Knieriem (1938-1945); ter Meer (1933-1945); Schneider (1938-1945).

Technical Committee(TEA) and Subordinates

The principal delegations of authority and original responsibility reposed in the Technical Committee. As the name implies, it was comprised of the technical members of the Vorstand and other important technical personnel (scientists, engineers, plant managers) who were not Vorstand members. Formed immediately after the 1926 merger, it dealt until 1945 with all technical questions of research and production, expansion of plant facilities and consolidation and recommendation of credit requests. It had a centralized administrative office, the TEA-Buero in Berlin, managed by one Dr. Ernst Struss. Twelve of the defendants were regular members during the period indicated, to-wit: Krauch(1929-1940); Gajewski (1929-1945); Hoerlein (1931-1945); ter Meer(1925-1945); Schneider(1938-1945); Ambros (1933-1945); Buergin(1938-1945); Bueteftisch (1938-1945); Jashne(1938-1945); Kuehne(1925-1945); Lentenschlaeger (1938-1945); Wurster (1938-1945); and, the following defendants were frequent visitors or guests during the years indicated, to-wit: Schmitz (1925-1945); von Schnitzler (1929-1945); von Knieriem (1931-1945); Schneider (1929-1938); Buergin (1937-1938); Bueteftisch (1932-1938); Jashne(1926-1938). Defendant ter Meer was chairman from 1933 to 1945.

This TEA had subservient Committees to originate, consider and recommend plans for production and exchange of information on research, development and application, plus opinions on appropriations for new construction. These subcommittees numbered thirty-six in chemistry, five in engineering, the latter grouped under a "Technical Commission(TEKO)," with defendant Jashne as chairman, 1932-1945.

Commercial Committee(KA)

As distinguished from the "Technical," the counter-balance of managerial power was represented by the "Commercial Committee" of the Vorstand.

The Commercial Committee was formed shortly after the 1926 merger to assist the Vorstand in directing and coordinating the commercial affairs of Farben, i.e., sales, publicity, commercial personnel, both domestic and foreign, economic problems affecting Farben interests, etc. It gradually lapsed into inactivity by 1933, but was reconstituted in August, 1937 under the leadership of defendant von Schnitzler, and thereafter until 1945 was a very active and important group in the Vorstand. Besides von Schnitzler, defendants Haeffliger, Ilgner, Mann and Oster served

from 1937 and defendant Kugler from 1940 until the collapse of Germany. The full membership numbered about twenty, comprising the heads of the Sales Combines and their immediate associates and the heads of the "central departments," financial, accounting, purchasing, economic-political. Defendant Schmitz was a regular guest and defendants Gajewski, von Knieriem and ter Meer occasional guests at meetings of this Committee. Approval by the Vorstand was required for all KA resolutions.

"Mixed Committees"

Coordination between the technical and commercial chiefs of Farben was established initially at the Vorstand level, where the pre-eminent leaders met to hear and discuss reports of the individual members on matters where they had special responsibilities, and to pass upon general policy. However, preliminary screening of such matters was frequently accomplished by so-called "Mixed" Committees, the principal ones being the Chemicals Committee (chief, von Schnitzler after 1943), Dyestuffs Committee (chief, von Schnitzler) and Pharmaceuticals Main Conference (chief, Hoerlein). Each of these committees included important technical and commercial leaders. The committee chiefs reported directly to the Vorstand.

Farben's Industrial Chain of Command

The implementation of policies and plans formulated by the instrumentalities outlined above was accomplished by a system of "decentralized centralization" of production and distribution. After the consolidation, groups of plants were organized primarily according to geographical location in

"Works Combines."

The four original combines were called Upper Rhine, Main Valley, Lower Rhine and Central Germany. In 1929 a fifth, called "Works Combine Berlin" was established, although its plants were widely scattered. The Plants Combines coordinated such matters as over-all administration, research, transportation, storage, etc. in their respective areas, including major technical problems affecting their plants until 1929. Defendants who were in charge of these Combines were: Upper Rhine, Krauch (1938-1940); Wurster (1940-1945); Main Valley, Lautenschlaeger (1938-1945); Jaehne, Deputy, same period; Lower Rhine, Kuehne (1933-1945); Central Germany, Buerger (1938-1945); Berlin, Gajewski (1929-1945).

The "Sparten" (Main Groups)

In 1929 three main directional groups, each known as a Sparte, were established in the interest of efficiency in research and production and improved coordination of the individual plants. Jurisdiction was determined by products rather than by plants or geographical location; hence some plants producing several products came under the supervision and direction of more than one Sparte.

Sparte I included nitrogen, synthetic fuels and lubricants, and coal. Krsuch was its chief from 1929 until 1938; thereafter, Schneider was chief and Bueteftsch deputy chief. Sparte II included dyestuffs and intermediate dyestuffs products; various chemicals; pharmaceuticals; Buna; light metals; chemical warfare agents. Defendant ter Meer headed Sparte II from 1929 until 1945. The smallest, Sparte III, included photographic materials, synthetic fibres, cellulose products, explosives, cellophane and ozalid. Gajewski was chief from 1929 to 1945.

The Plants

Under the complicated organizational superstructure outlined above, the ultimate development, manufacture and distribution of Farben's many and diversified products were accomplished at the "Plant" levels. Each major plant was usually under the personal direction of a Vorstand member, with his main office in the plant. In some cases one member had direct supervision of more than one plant; in others a division of management prevailed according to production.

The following defendants were responsible for the direction, as plant leaders, of the plants listed in connection with the manufacture of the products indicated:

GAJEWSKI was Plant Leader of Wolfen Film Plant and Manager of "AGFA" Plants located at Wolfen Filmfabrik, Berlin-Lichtenberg, Prenzlitz, Landsberg, Munich-Camerawerk, Bobingen, Rottweil, 1931-1945, which produced photographic materials, artificial silk, synthetic fibres, cellulose wool, cellulose, all kinds of cellulose products and ozalid.

HUEBLIN was Plant Leader of the Elberfeld Plant, 1933-1941 and Manager of the Elberfeld Plant 1931-1941, which produced pharmaceuticals, organic intermediates, insecticides, biologicals, and research in pharmaceuticals and chemicals for plant protection and pest destruction.

SCHNEIDER was Plant Leader of Ammoniakwerk, Merseburg (Leuna), 1936-1938; Full Manager of Ammoniakwerk, Merseburg (Leuna), 1938-1945; Deputy Manager, Ammoniakwerk, Merseburg, and Manager of Leuna Plant, 1928-1936; these plants produced inorganics and nitrogen, organic intermediates, solvents, plasticisers, methanol, dyeing and printing auxiliaries, detergent, raw materials, gasoline, and lubricating oils.

MEEROS was manager of the following plants: Schkopau (Buna I), 1935-1945; Ludwigshafen-Oppau (Organic, Intermediates and Dyestuffs Plants and Laboratories), 1938-1945; Huels (Buna II), 1938-1945; Ludwigshafen (Buna III), 1941-1945; Auschwitz (Buna IV), 1941-1945; Gendorf (Inorganic), 1941-1945; Dyhernfurt, 1941-1945; Falkenhagen, 1942-1945; which produced synthetic rubber, inorganics and nitrogen, organic intermediates, solvents, plasticisers, methanol, plastics, accelerators, dyestuffs, dyeing and printing auxiliaries, detergent raw materials, poisonous gas and intermediates.

BUERGIN was Plant Leader of Bitterfeld-Wolfen Plants, 1938-1945, which produced inorganics and nitrogen, organic intermediates, plastics, magnesium and aluminum, dyestuffs, dyeing and printing auxiliaries, detergent raw materials, insecticides, light metals.

BUETEFISCH was Technical Chief of Leuna Works, Merseburg, 1931-1945; Deputy Manager, Ammoniakwerk, Merseburg, 1934-1945; and Chief - (Syn. Gasoline), Auschwitz, 1941-1945; which produced nitrogen, gasoline, lubricating oil, methanol, mercol, organic intermediates and acetic acid.

KUERNER was Plant Leader of Leverkusen, 1933-1943, which produced inorganics, organic intermediates, Buna, plastics, pharmaceuticals, insecticides, acetylcellulose, synthetic fibres.

LAUTENSCHLAGER was Plant Leader at Hoechst Plant, 1938-1945, which produced inorganics, solvents, organic intermediates, plastics, pharmaceuticals, compressed gases, welding and cutting equipment and oxygen.

WURSTER was Plant Leader at Ludwigshafen-Oppau "during World War II," and Technical Director of Ludwigshafen-Oppau, 1938-1945, which produced inorganics, organic intermediates, Buna, plastics, solvents, synthetic rubber, tanning extracts, dyestuffs, detergent raw materials and ethylene oxide.

Where the local manager of a plant was not a Vorstand member, he received orders and information from his Sparte head, the head of his Works Combine, or some other means of coordination and supervision by the Vorstand existed. It is abundantly clear that all lines led to the Vorstand.

Administrative Coordination

In 1927 the first of a number of central administrative agencies was set up in Berlin, NW 7, in charge of defendant Ilgner. This was the Central Finance Administration (ZEFI). It was followed in 1929 by an Economic Research Department (VOWI) and a Political-Economic Policy Department in 1933. The function of the latter was to assure close cooperation between the commercial departments of Farben and government agencies. In 1935 a central office for liaison with Armed Forces called "Vermittlungsstelle W" was added, which eventually dealt with such matters as mobilization questions and plans, military security, counter-intelligence, secret patents, research for the Armed Forces, etc. Its activities were of sufficient importance to have each Sparte designate a chief and collaborators to its staff. Defendant von der Heyde was in charge of its counter-intelligence activities, under the over-all supervision of defendant Schneider.

Sales Combines to handle the four principal categories of Farben products were established, each headed by a Vorstand member. Chief of the "Sales Combine Dyestuffs" was defendant von Schnitzler, who also became chief of "Sales Combine Chemicals" in 1943. Defendant Haefliger was one of his three deputies. Defendant Mann was chief of "Sales Combine Pharmaceuticals."

Nitrogen was sold exclusively through the German Nitrogen Syndicate (Stickstoff Syndikat G.m.b.H.) which was managed by defendant Oster.

Most of the plants and all of the Sales Combines of Farben had legal departments, and all of the larger plants had patent departments. The work of these departments was coordinated by two Vorstand Committees, the "Legal Committee" and the "Patent Commission." Defendant von Knieriem was chairman of both bodies, and was also head of the legal and patents departments of the Ludwigshafen plant which served as a central clearing office for all major legal and patent questions of general interest.

The foregoing constitutes a description of the instrumentality of Farben and a factual recital of the manner of its functioning. Farben, for decades, has been a pioneer in the world of chemical research. It was with pride that Defense Counsel pointed to these pioneer achievements: the discovery of "dyestuffs, the synthesis of nitrogen from the air, the methanol synthesis, artificial fibres, light metals, buna, the plastics, the processes of refining coal as a source of power by means of gasoline and lubricant synthesis, numerous chemiotherapeutic agents of vital importance." During that period Farben had achieved a dominant position not only in Germany but one of leadership in the world. Defendant von Schnitzler referred to a phrase most aptly characterizing Farben as "a State within a State." As to the important position of Farben in German industrial, commercial and political life, there can be no controversy.

Activities of Farben in the Rearmament of Germany:

The Indictment has divided the activities of Farben into particular categories: (a) support of Hitler and the Nazi Party; (b) cooperation with the Wehrmacht; (c) Four Year Plan and economic mobilization of Germany for war; (d) activities in creating and equipping the Nazi military machine; (e) procuring and stockpiling of critical war materials; (f) activities in the weakening of Germany's potential enemies; (g) the carrying on of propaganda, intelligence and espionage activities; (h) the cloaking of Farben's assets abroad for war purposes and in anticipation of hostilities; (i) the activities of Farben in acquiring control of the chemical industry in occupied countries. In its excellent preliminary brief the prosecution has marshalled the more significant evidence under similar headings. For reasons of convenience the same major categories will be utilized in discussing Farben's activities. The following facts have been proved beyond any possibility of doubt by competent evidence found in abundance in the record. Captured documents, official reports, statements, affidavits, interrogations, letters, and direct testimony of many witnesses all combine to make it certain that the following facts are true:

(a) Support of Hitler and the Nazi Party. In the critical election of March 1933, Farben supported Hitler and his coalition with a financial contribution of 400,000 Reichsmarks, being its share of a fund of more than

2,000,000 Reichsmarks contributed by industries represented at the meeting in Goering's home on 20 February 1933, addressed by Hitler and Goering and attended by the Defendant von Schnitzler. The action of Farben along with other industrialists in rallying to the support of Hitler at that time was undoubtedly a factor contributing to the seizure and consolidation of power by Hitler. Thereafter Farben made numerous financial contributions to Hitler and the Nazi Party ranging over a period from 1933 to 1944 and reaching a total of 40,000,000 Reichsmarks including those required contributions which were based on rates fixed for industrial organizations in German economy. As a matter of general procedure in Farben all contributions had to be reported to and approved by the Central Committee which, prior to 1938, in turn reported to the Working Committee of the Vorstand and after 1938 reported direct to the Vorstand. It is clear that Farben was a generous and regular contributor to a wide variety of Nazi causes and to some of its leading personalities.

(b) Cooperation with the Wehrmacht. It is stated in the International Military Tribunal Judgment:

"During the years immediately following Hitler's appointment as Chancellor, the Nazi Government set about re-organizing the economic life of Germany, and in particular the armament industry. This was done on a vast scale and with extreme thoroughness.

"...In this reorganization of the economic life of Germany for military purposes, the Nazi Government found the German armament industry quite willing to cooperate, and to play its part in the rearmament program."

Farben was pre-eminent in chemical research and development and willingly cooperated with the Nazi regime in making its techniques available. The evidence establishes a continuous record of collaboration and cooperation between Farben and the Wehrmacht in these important fields. Farben cooperated in the planning of stand-by plants or state-owned shadow factories; as early as 1933, Farben made preparations for air raid protection of its plants and through the subsequent years conducted "map exercises" or "war games," testing how important plants could be protected against bombing. The Chief and officials of the Military Economic Staff personally attended such exercises in March 1936. An extensive program of stock-piling of essential war materials was pursued by Farben. An official German governmental report on "The Program of Work for Economic Mobilization on 30 September 1934" showed that: "It was possible to start in June of this year at

Doberitz," a plant for making a sufficient quantity of highly concentrated nitric acid available for production of explosives and ammunition. (This was a Farben plant and required approximately 2.7 million Reichsmarks for construction.) Of the ferrous alloys (ferrous chromium, ferrous wolfram, ferrous molybdenum, ferrous vanadium) necessary for the production of high grade steels, Farben, at the request of the government, transferred a "part of the production of ferrous wolfram, heretofore exclusively located in the danger zone near Aix-la-Chapelle, to central Germany," and built a "reserve plant of considerable size"; extended "its installation for the production of ferrous molybdenum"; and completed the stock-piling of an additional amount of pyrites, "the basic raw material of sulphuric acid, which is an indispensable chemical intermediate product" and which in Germany "can only be produced in the danger zone." In that report, after the following comment as to the importance of gasoline,

"The extraordinary significance of motor fuel supplies is a result of the increasing motorization of the Wehrmacht, the growing importance of the German Air Forces, almost unlimited in its future development, and finally of the ever-increasing motorization of the whole civilian transport system which would be endangered most seriously by a motor-fuel shortage,"

it is pointed out that:

"Among all the raw materials under consideration, motor fuel furthermore holds a distinctive position, because it needs to be immediately available for the conduct of war"

and that,

"So far the increase in production at Leuna" (a Farben plant) "from hitherto 100,000 tons to a total of 300,000 tons in the future has actually been realized."

In 1933 Germany had withdrawn from the League of Nations, and in 1935, as stated by the International Military Tribunal, "the Nazi Government decided to take the first open steps to free itself from its obligations under the Treaty of Versailles"; and on 10 March 1935, "Goering announced that Germany was building a military air force", and six days later compulsory military service was instituted.

While those significant political events occurred, Farben continued its energetic cooperation. That cooperation between Farben and the government in the rearmament of Germany became so extensive that in the latter part

of 1935 Farben found it necessary to establish a Military Liaison Office in Berlin. The defendant Krauch was active in the establishment of this office, known as the Vermittlungsstelle W. Its purpose was to serve as an office of Farben for all questions of military economy, of military policy, and of a military technical nature in connection with the planned development of the military economy. A Farben report prepared by Dr. Ritter, representative of Sparte I in Vermittlungsstelle W, dated 31 December 1935, states the aim to be "The building up of a tight organization for armament in the I.G. which could be inserted without difficulty in the existing organization of I.G. and the individual plants." The existing basis of cooperation between Farben and the Reich Ministries of War and Economy is reflected in the significant further statement in the report:

"In case of war, I.G. will be treated by the authorities concerned with armament questions as one big plant which in its tasks for the armament, as far as it is possible to do so from the technical point of view, will regulate itself without any organizational influence from the outside."

Each of the three Farben Sparten established offices in the Vermittlungsstelle W, and these offices were responsible to the respective Sparte Head, to-wit: to the defendants Krauch and Schneider (after 1938) for Sparte I; to the defendant ter Meer for Sparte II; and to the defendant Gajewski for Sparte III. Thereafter, during the entire period of mobilization and preparation for Germany's aggressive wars the Vermittlungsstelle W functioned as an important liaison office on many major matters incident to the economic mobilization and rearmament. The significance of the office is not lessened by the fact that it was largely a liaison office. By the year 1939, of the military problems with which the Vermittlungsstelle W was occupied and which were discussed with the Wehrmacht, many projects originated with Farben itself as distinguished from matters resulting from the direct request of the Wehrmacht. The office retained considerable importance despite the fact that some of its original broad functions were taken over by Krauch when he was appointed to the Office of German Raw and Basic Materials, to which office he took several persons from the Farben office. It should be noted that Krauch remained nominally in charge of Vermittlungsstelle W. Under Krauch the Vermittlungsstelle W established a special security section and issued detailed directives for

counter-intelligence, in keeping with existing decrees and directives surrounding the matter of secrecy, with certain exceptions applicable only to Farben. In a communication to the directors of Farben plants, including several of the defendants, Vermittlungsstelle W stated that "in view of the future war economy, Section A" (being the special security section established within Vermittlungsstelle W) "is at the disposal of all I.G. plants and I.G. Agencies for any information in counter-intelligence and security matters, and will take care if necessary that information be exchanged."

By 1936 the problems incident to mobilization and production for the case of war continuously engaged the attention of Farben personnel. These activities continued during 1937 and 1938. Mobilization plans were drafted in detail, including the production tasks to be assigned to the various Farben plants and subsidiaries. These plans were arrived at, based on comprehensive discussions with representatives of the Reich War Ministry, the Reich Ministry of Economics and the Reichsstelle Chemistry.

These plans for mobilization within Farben were repeatedly discussed in such important Farben Committees as the Technical Committee and the Commercial Committee. They were known to the responsible "technical" members of Farben's Vorstand and to the leading "commercial" members of the Vorstand.

Immediately prior to the invasion of Poland, Farben's Leverkusen plant was notified on 26 August 1939 by secret letter from the Military Economics Department, Dusseldorf, that personnel in military important plants had to remain on the job and instructions were issued "for the duration of military measures." Vermittlungsstelle W issued notification and instructions to Farben's plants on 28 August 1939 that it could be reached on a twenty-four hour basis. The Hoechst plant of Farben received on 30 August 1939 the necessary shipment papers for the first fourteen days of the mobilization from the Military Economics Department, Kassel.

So complete was Farben's cooperation and planning that Farben's plants all had their assigned war production tasks which became operative when Germany attacked Poland in September of 1939. Vermittlungsstelle W merely had to advise the TEA office of Farben on 3 September 1939 that it was necessary for "...all I.G. Plants to switch at once to the production outlined in the mobilization program." Subsequently on 6 September 1939, the Vermittlungsstelle W informed the various Farben plants that the war delivery contracts, some of which had been concluded in 1938, became effective immediately.

(c) The Four Year Plan and Economic Mobilization of Germany for War.

Germany's planning of measures of rearmament and reorganization of the economic life of Germany "was done on a vast scale and with extreme thoroughness." The following facts found by the IMT are pertinent here:

"It was necessary to lay a secure financial foundation for the building of armaments, and in April 1936 the Defendant Goering was appointed coordinator for raw materials and foreign exchange, and empowered to supervise all State and Party activities in these fields. In this capacity he brought together the War Minister, the Minister of Economics, the Reich Finance Minister, the President of the Reichsbank, and the Prussian Finance Minister to discuss problems connected with war mobilization, and on 27 May 1936, in addressing these men, Goering opposed any financial limitation of war production and added that 'all measures are to be considered from the standpoint of an assured waging of war.' At the Party Rally in Nuremberg in 1936, Hitler announced the establishment of the Four Year Plan and the appointment of Goering as the Plenipotentiary in charge. Goering was already engaged in building a strong air force and on 8 July 1938 he announced to a number of leading German air craft manufacturers that the German Air Force was already superior in quality and quantity to the English. On 14 October 1938, at another conference, Goering announced that Hitler had instructed him to organize a gigantic armament program which would make insignificant all previous achievements. He said that he had been ordered to build as rapidly as possible an air force five times as large as originally planned, to increase the speed of the rearmament of the navy and army, and to concentrate on offensive weapons, principally heavy artillery and heavy tanks. He then laid down a specific program designed to accomplish these ends. The extent to which rearmament had been accomplished was stated by Hitler in his memorandum of 9 October 1939, after the campaign in Poland. He said:

'The Military application of our people's strength has been carried through to such an extent that within a short time at any rate it cannot be markedly improved upon by any manner of effort....

'The warlike equipment of the German people is at present larger in quantity and better in quality for a greater number of German divisions than in the year 1914. The weapons themselves, taking a substantial cross-section, are more modern than in the case of any other country in the world at this time. They have just proved their supreme war worthiness in their victorious campaign... There is no evidence available to show that any country in the world disposes of a better total ammunition stock than the Reich....'

There was an enormous program of planning and preparation behind these accomplishments and Farben was a major factor contributing to the results achieved. The record abundantly shows the integration of Farben with this program. The meeting of the Experts Committee on Raw Materials Questions on 26 May 1936, presided over by Goering and attended by defendant Schmitz, has already been discussed in this opinion. In that same month Farben through Bosch, the Chairman of the Vorstand at that time, placed the defendant Krauch at the disposal of Goering. Krauch, who was one of Farben's most capable scientists and administrators, was put in charge of the sector for Research and Development. Important personnel from

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the Vermittlungsstelle W (Dr. Ritter and Dr. Eckell) went over with Krauch to assist in the performance of the tasks assigned to Krauch. These tasks were to help in preparing for war with reference to raw materials essential to the waging of war. Hitler had already advised Goering in the summer of 1936:

"The German Army must be ready for combat within four years. The German economy must be mobilized for war within four years."

And Hitler told Goering further:

"The German motor fuel production must now be developed with the utmost speed and brought to the definitive completion within 18 months. This task must be handled and executed with the same determination as the waging of war. The mass production of synthetic rubber must be also organized and secured with the same rapidity. The affirmation that the procedure might not be quite determined and similar excuses must not be heard from now on."

The Office of Raw Materials and Foreign Exchange was rapidly succeeded by the Office of the Four Year Plan following the announcement of that plan by Hitler at the Nurnberg Party Rally in 1936. Krauch continued under Goering in the Four Year Plan in charge of facility expansions for strategic raw materials and synthetics. In a speech delivered to the Reich Chamber of Labor on 24 November 1936, General Thomas, Chief of the Military Economic Staff of the Office of the Wehrmacht, described the Four Year Plan as "military economy at its purest." Krauch was Farben's main liaison with the over-all planning of the German armament, but other defendants were extremely active in their respective spheres of responsibility. On 6 and 7 August 1936, defendant Bueteffisch attended a conference on the government oil program in Berlin with members of the Raw Materials Staff in which the government oil program under the Four Year Plan was discussed. It was explained by Fischer, head of the Economic Group Motor Fuels, that "the total plan is not adjusted to meeting peacetime requirements, but to the requirements in case of mobilization." Bueteffisch stated that a second stage of development is planned regarding which there would be information eight days later, "with a total of 24 months allowed for construction work." A few days later, on 12 October, 1936, defendants Jaehne and Lautenschlaeger attended a meeting of the Technical Management at Frankfurt/a.M., Hoechst, in which the urgent requirements of Farben for the production of gasoline, rubber and artificial fibers under the Four Year Plan were discussed. Increase in artificial fibers to 85,000 tons per annum by the end of

the year was noted as well as "significant increase" of "manufacture of metals." On 17 October 1936, defendant Schmits reported to the Aufsichtsrat of Farben on "the great tasks which our firm has with regard to raw materials in the Four Year Plan as announced by the Fuehrer in Nurnberg." Only for the purpose of chronological presentation and logical consideration, the address by Goering delivered on 17 December 1936 to a group of about one hundred leading industrialists is referred to here. Its significance on the question of knowledge by several of the defendants, including Krauch and von Schnitzler, has already been discussed in this opinion.

The year 1937 was an important period in the expansion program of Farben in preparing to meet the requirements of the Four Year Plan. A tremendous outlay of capital was involved, some of which was furnished by Farben but much of which was supplied by the government. On 6 January 1937, a conference was scheduled by Krauch's Office for Raw Materials and Synthetics with representatives of the Office of Ministry Economy, Reich Air Ministry and of the Navy for the discussion of a broad scope of subjects including: (1) plants to be set up for the production of gunpowder and explosives and stockpiling of these materials; (2) plants to be set up for the production of chemical warfare agents and stockpiling of such products; (3) decision on production(stand-by) plants for calcium hypochlorite or losantin and stockpiling of that product; (4) plan for stockpiling many important items including preliminary products and organic basic materials, such as nitration paper, diglycol, to meet requirements for one year; (5) sites for stock storage dumps or stockpiling of diglycol, ammonia and other chemical products vital for the making of explosives including thiodiglycol and dichlorodiethylsulphide. In March 1937, Hitler in a speech on the Four Year Plan said: "In two or three years we will be free of requirements of fuel and rubber from abroad,..." On 27 May 1937, Goering approved "the plan of the Four Year Plan for those projects which will be carried out by the Office for German Raw- and Industrial-Materials,..." being a comprehensive survey in great detail covering plans for production, including chemicals, during the four year period.

The projects set out in the survey were checked by Krauch, especially the sectors coming within the Farben area and Krauch discussed the planning in these specialized fields with Farben.

The significance of the Four Year Plan was explained by Krauch in a speech delivered by him and published in the Four Year Plan in August 1937. He

said:

"The German people is forced to live in much too restricted a space. Exclusion from the possession of the world's sources of raw materials compels us to produce the materials necessary for her national security by chemical means from her own resources - from coal, salts, lime and other materials, as well as from air and water. That is the purport of the Four-Year-Plan, as described by the Fuehrer in the words: 'I present this today as the new Four-Year-Program. In four years, Germany must be completely independent, as far as concerns all those materials from abroad which it is in any way possible for German skill to produce through our chemical and engineering industries and through our mining industry itself.'"

"The economic progress achieved by the National Socialist leadership, and rearmament has absorbed for practical ends all that was available in the field of technical and chemical training....

"The following measures seem important:

"I. The clarification of public opinion on the importance of science and engineering to our nation and particularly on the following points;

"1. The exploitation of valuable scientific and technical achievements is indispensable to the realization of our political aim. ..."

There can be no doubt concerning Krach's sympathy with the political aims and objectives of the National Socialist leadership and his eminent standing as industrial scientist meant that he fully understood and appreciated the tremendous contribution Farben could make in achieving independence for Germany in the important raw materials essential for the waging of war.

In explaining the military importance of chemical products including those of Farben, Dr. Elias, a witness, produced by the Prosecution, testified:

"German chemical industry was one built on coal, air and water. Supplies of petroleum in Germany are very meager. The maximum production of petroleum in all of Germany from its own oil wells has always represented only a small fraction of its total requirements. Coal, however, is plentifully available and brown coal, which is a sort of lignite, is available in huge quantities and easily accessible to large scale mining. With coal as a basic material and with the aid of air and water, indefinite numbers of organic compounds composed of carbon, nitrogen, hydrogen and oxygen can be made. 84% of Germany's aviation fuel, 85% of her motor gasoline, all but a fraction of 1% of her rubber, 100% of the concentrated nitric acid, basic component of all explosives, and 99% of her equally important methanol were synthesized from these three fundamental raw materials - coal, air, and water.

"The military significance of oil is best explained by the fact that in the closing months of the war, after the British and American Air Forces had concentrated on German synthetic oil targets, Germany's large reserve in military aircraft stayed on the ground with empty tanks; armored vehicles were moved to the front by oxen and every motor trip exceeding 60 miles had to be approved by the commanding general. Without nitrogen, not a single ton of military explosives or propellant powder could have been made. Certain military explosives were entirely dependent on synthetic methanol as well as ammonia. Without rubber, of course,

the war machine could not have rolled.

"The element which is common to the synthesis of liquid fuels, ammonia (from which nitric acid is made) and methanol, is hydrogen. Pure hydrogen is needed to fix the nitrogen of the air; it is needed to reduce the coal tar or coal to liquid fuels; and it is needed to reduce the carbon monoxide made from coal to methanol. It is also needed in certain stages in the production of butadiene for the manufacture of synthetic rubber. Because of this fact several products were manufactured from hydrogen in the same unit in the various I.G. plants. In plants such as Leuna we find not only ammonia being produced but also gasoline, lubricating oil, methanol, and other products. At Ludwigshafen we find synthetic ammonia, menthol, organic intermediates and synthetic rubber. At Waldenburg and Hydebrack there is ammonia and methanol and ethylene. In other words, it was found to be more economical to build several operations which consumed hydrogen around the central hydrogen production so that as the demand for any of the individual products fluctuated, the hydrogen production could be shifted for use to one of the other products and thus kept going.

"Well, in summarizing I have indicated the sources of synthetic and by-product ammonia, synthetic methanol, synthetic liquid fuels, synthetic rubber, acetylene, ethylene, benzol and toluene. The actual structure of important intermediates and finished products is built on this skeleton of raw materials; so that starting with coal, air and water, Farben was able to supply Germany with most of its liquid fuels and lubricants, practically all of its rubber, all of its methanol, most of its ammonia, and, therefore, its nitric acid and its raw materials for the production of dyestuffs, pharmaceuticals, explosives and poison gases."

In a letter to Goering dated 15 June 1937, defendant ter Meer, after referring to the contract, concluded with the Reich, about the establishment of a large scale Buna plant in Schkopau, said:

"We are willing also to sign contracts of license, each for the period of ten years, with further Buna plants to be established within the Four Year Plan,..."

"This consent to put our patents and 'Know-how' at the disposal of the new plants referred to, by renouncing profit, can only be justified from the point of view of the Four Year Plan,..."

In this plan for economic mobilization within the chemical field, excluding mineral oil, Farben was assigned a major proportion. In the mineral oil sector, including the plants which were Reich owned but operated by Farben or its licensees, the allocation was 90%; for synthetic rubber the allocation was 100%; for preliminary products for explosives and chemical warfare agents, 100%; for the important preliminary products such as diglycol and thiodiglycol, it was 100%; for methanol, ammonia(nitrogen), 100%. An analysis of the plan showed that of the total projected investments to be made under the Four Year Plan, 91.5% were for chemical production of which the Farben share of products amounted to 72.7%, and

that of the total to be spent on the Four Year Plan for the entire German industry, 66.5% was to be used for projects making Farben products.

It was during the years 1936 and 1937 that Schacht gradually lost his influence and important standing in the German economy. As was stated by the IMT, Schacht opposed the greatly expanded program for the production of synthetic raw materials, as well as the announcement of the Four Year Plan with the task of putting "the entire economy in a state of readiness for war" within four years and Goering's appointment to head it. The IMT stated: "It is clear that Hitler's action represented a decision that Schacht's economic policies were too conservative for the drastic rearmament policy which Hitler wanted to put into effect." Schacht's disagreement with Goering and the policy being pursued resulted in his "eventual dismissal from all power of economic significance in Germany." Schacht contended, as stated by the IMT, "that when he discovered that the Nazis were rearming for aggressive purposes, he attempted to slow down the speed of rearmament; and that...he participated in plans to get rid of Hitler, first by deposing him and later by assassination....Had the policies advocated by him been put into effect, Germany would not have been prepared for a general European war. Insistence on his policies led to his eventual dismissal from all positions of economic significance in Germany."

While the activities of Schacht were diminished, those of the defendants Krauch and Farben were increased. During the years 1938 and 1939 their intensity can hardly be exaggerated. During that period of time, as found by the IMT, in March 1938 occurred the invasion of Austria, - characterized by the IMT as "a pre-meditated aggressive step in furthering the plan to wage aggressive wars against other countries."

Within a month after the invasion of Austria, Krauch's office prepared a report entitled "Assuring of Mobilization Provisioning by Stockpiling" a copy of which Krauch personally received. Among other things, the report included:

- "A. additional stockpiling for assuring the 1st mobilization Year, taking into account the stocks already on hand.
- "B. additional stockpiling for assuring the 2nd mobilization year, (supplies on hand have already been used up in the first mobilization year, a possible increase of domestic production has been taken into account)."

Referring to invasion of Austria, it said:

"The additional mobilization requirements because of the Anschluss of Austria have not been taken particularly into account. ..."

"The effects on domestic production because of the inclusion of the Austrian economic area have been taken into account in connection with the considerations."

Concerning rubber, it said:

"5. Rubber. Here the latest mobilization requirement of 65,000 tons per year has been taken into account. The requirement of approximately 102,000 tons per year, which was mentioned recently, has now been abandoned. Starting with the second year of mobilization, calculated from today, the production of buna will come very much into the picture...."

By the summer of 1938 following the march into Austria and in the period of "crises" prior to the Munich Pact, there was considerable concern within Germany over the possibility of war. Bosch of Farben sought to obtain an interview with Goering to dissuade him but did not succeed in having such interview. Krauch testified, by way of answer to interrogatories, that in June 1938:

"...Dr. Bosch was asking me in Berlin if he could see Goering. He said to me there is a great big talk about war. If they are going to war, Germany is lost."

Krauch further said:

"...I told Kerner that I had knowledge now of the figures that are given to the government about building up of the production in the Four Year Plan. Figures about the production of gasoline, of Buna, of artificial products, etheters, which show what we are going to do in 1938 and 1939. I know that these figures are wrong. I was talking a week before with Major Leeb about these figures and I told that there is great danger in giving at this time wrong figures to the Government. It may be possible if one deciding man knows about those wrong figures and he is thinking about war, he would decide against it. If he knows we are not independent in the war he would decide against war. That is a great danger in the wrong figures question. Then Kerner told this to Goering. Goering said to me the next day: 'You have given other figures than we have in hand?' I told him the same thing I had told Kerner that it is a great danger to give out wrong figures, and I know quite well the production of all the plants of I.G. The production is not so high as the Four Year Plan man has given to Goering...."

"Goering said: 'I will talk with Keitel about the figures, and the next day, you will have to come over and we will talk again.' The next day, he said: 'I have talked with Keitel who said that our figures are right. Much work has been done in the building up of the plants.' He said he was calling for production of explosives for two years so high, and now they had the production so high. I said to Goering that those figures are wrong. I know the production of nitrogen and other raw materials for the plants that make explosives. And I can say they can only make so much explosives. And then Goering said to me: 'Now, I have confidence in your figures.' Then maybe three or four days later, I had to come to Goering's place and he said to me: 'Now, you will have to make a survey of all the production for the future. If I want to know about the figures I will call on you. In order that you can have the figures from the industry or from GEM, I nominate you to General Bevollmaechtigter fuer Chemische Industrie.'"

At another time, while being interrogated, defendant Krauch said:

"Q. At that point, what steps were taken by I.G. similar to the one which Dr. Bosch attempted to take in June 1938, when he went to see Goering, to try to halt the Nazis from going to war?

"A. I have answered this question before. We did nothing officially, but unofficially various people of the I.G., were talking to different men of the government. I was talking every month and saying that this is an impossible thing. ..."

There is in the evidence a comprehensive report dated 27 June 1938 concerning the "program for the manufacture of chemical warfare agents and explosives in Germany" and with particular reference to the Farben production made in compliance with the request from Krauch. Krauch, on 30 June 1938, submitted to Goering an "accelerated plan for explosives, gunpowder, intermediates and chemical warfare agents." This plan was adopted by Goering but was soon supplanted by a plan drafted by Krauch, dated 12 July 1938, called the Military Economic New Production Plan, also called the Krauch Plan or the Karinhall Plan, - according to the goal for the new production plan "set by the Generalfeldmarschall on 30.6.1938 in Karinhall."

This plan covered mineral oil, rubber (Buna) and light metals in addition to gunpowder, explosives and chemical warfare agents. The utmost acceleration of building and production projects keyed to definite mobilization targets was provided in these plans. At a conference between Goering and OKW at Karinhall on 18 July 1938, Goering said that the Four Year Plan's function consists in preparing the German economy for total war in four years; he also said that "In the event of 'X-Fall' and during the war, 'FYP' will be continued with special emphasis on projects essential to the War effort (production of Buna, Ore, Fuels, Explosives, etc.)."

A document bearing that same date, to-wit, 18 July 1938, entitled "Measures in accordance with order dated 15 July 1938 for the execution of the new military economic production plan" lists nine different commissions given to Farben plants for the production of chemical warfare agents and diglycol.

On 22 July 1938, defendant Krauch wrote a letter to State Secretary Koerner stressing that industry was willing to take upon itself greater responsibilities in the field of rearmament. In that letter, Krauch said:

"...the development of the processing and creation of these materials/intermediate products for gunpowder and explosives/ is the concern of the industry....The fertilizer nitrogen basis becomes at once, by its export decline in the case of mobilization, the backbone of the whole of the nitric acids and of ammonium nitrate. ... This applies particularly to the whole of the ethylene chemistry which is inextricably bound up through di-glycol for gunpowder and the chemical warfare agents with the entire industry of the coking plants and mineral oil syntheses. ... as far back as the end of 1936, [I] repeatedly directed the attention of the Wehrmacht to the urgent necessity of stockpiling. Already at that time, for example, I requested that considerable quantities of Toluene be stocked up for existing explosives factories. ...

"The firms concerned are willingly prepared to assume the responsibility themselves for the quickest possible rush execution. ... The industry has already undertaken to devote its best abilities to the carrying out of the task I should set them. ... the production of gunpowder, explosives and chemical warfare agents are chemical processes. They cannot therefore be treated as distinct from the rest of the chemical industry. I should, of course act in the closest cooperation with the HWA [Army Ordnance]." (Emphasis supplied)

Subsequently, on 13 August 1938, Krauch prepared the so-called "Rush Plan" and laid the basis for its expeditious execution in agreement with the High Command of Army Ordnance (General Becker) and the Office of Military Economy (General Thomas).

After Goering appointed Krauch as Plenipotentiary General for Special Problems of Chemical Production in the Four Year Plan on 22 August 1938, the supervision of the Rush Plan was entrusted to Krauch. A document dated 22 August 1938 entitled "Order for carrying into effect the New Military Economics Production Plan and the Rush plan" states:

"1. The carrying into effect of the Military Economics new Production Plan and of the Rush Plan ordered for the expansion of the plants producing powder, explosives and K-agents (chemical warfare agents) and their primary products is entirely entrusted to Dr. Krauch. He, therefore, is fully responsible for the execution of the program within the time set, and for procuring the means required incidental thereto (money, steel, building materials, labor, etc.).

"2. ...

"a) Program and planning: Dr. Krauch

"In setting up the program and the planning the military points of view for which the Wehrmacht is responsible are to serve as a basis and its chemical and technical demands made by it are to be considered in largest measure.

"3.

To assure the closest possible cooperation between Dr. Krauch and the OKH (Wa A) the following measures are to be carried through:

"a) Creation by Dr. Krauch of a Building Staff for which OKH (Wa A) delegates a permanent representative.

"b) Assignment of a permanent representative of Dr. Krauch to OKH(Wa A).

"c) Creation by Dr. Krauch of control agents (authoritative specialists) who, together with Dr. Krauch, are also at the disposal of OKH(Wa A) for control purposes."

Leading Farben personnel were frequently called upon by Krauch as advisors in the execution of projects of the Four Year Plan. Farben and its subsidiaries supported the execution of the plan and a large percentage of the total expenditures under the plan was allocated for Farben projects.

Farben's plant investments rapidly rose as a result of the Four Year Plan. In the execution of "new military economic plan" immediate instructions and commissions were issued to Farben to increase production facilities for chemical warfare agents and diglycol, an essential intermediate for explosive production.

Krauch remained with the Four Year Plan throughout this period of intensive acceleration of rearmament.

After referring to an implementation survey in August of 1939 shortly before the outbreak of the war with particular emphasis upon the case of war in the fields of mineral oil, Buna, chemistry, light metals, and the "rapid plan" for powder, explosives, and chemical warfare agents, Krauch, following the outbreak of the war, proposed further plans for increased production in September 1939.

Krauch during the war participated in meetings of the General Council of the Four Year Plan where he occupied a position of dominating importance in the planning for and supplying of the fighting forces with munitions and war materials. He remained in that position throughout the war.

Krauch continued as a member of the Farben Vorstand until 1940, although often his work in the Four Year Plan prevented his attending its meetings. In that year he was elevated to the position of Chairman of the Aufsichtsrat of I.G. Farben.

(d) Creating and Equipping the Nazi Military Machine.

The activities of the defendants through Farben as an instrumentality for the production of vital chemical war products included:

Explosives:

Farben had large responsibilities and carried out a tremendous program of activities in the production of explosives.

A large planned expansion in military explosives began in 1934. Generally a Reich owned corporation - Mentan - built the plants and leased them to private explosive companies, which were predominantly Farben subsidiaries for the manufacture of explosives. By 1939, a large stockpile of powder had been built, totalling about 187,000 tons. Consumption of powder by the German forces averaged 3,000 tons per month in 1940 and 5,000 tons per month in 1941. Germany was dependent almost exclusively upon Farben for raw materials and intermediates necessary to make explosives and gunpowder. In the evidence is a chart from the records of the Reich Office for Economic Development entitled "Interlocking of Raw Materials of the Production of Powder, Explosives and Preliminary Products." Defendant Ambros testified concerning this chart, "This presentation is chemically correct." It shows that for the production of explosives and powder and chemical warfare agents those raw materials and intermediates are necessary which were produced predominately by Farben.

The production outlined in that chart has been made possible by the development during the first World War of the Haber-Bosch process for the production of synthetic nitrogen by Farben. As a result of that development, Farben enabled Germany to produce explosives without relying upon the imports of Chilean nitrates.

Farben planned facilities for production of nitric acid solely for the Wehrmacht in the event of war; Farben stockpiled pyrites, the basic raw material for sulphuric acid essential for the process of nitration; Farben increased Germany's production capabilities for nitric acid many times prior to the outbreak of the war in 1939.

Farben manufactured all of Germany's diglycol, an intermediate product for the manufacture of gunpowder. It was developed as a substitute for nitroglycerine. By the middle of 1937, Farben had planned an enormous expansion of diglycol production at Wolfen with the entire amount to go to the explosive manufacturers of Dynamit A.G. and Wessag. According to a report dated 9 February 1939 by the Army Ordnance Office, at that time the production capacity for diglycol at the I.G. Farben plants in Ludwigshafen, Wolfen, Schkopau, Huls and Trostberg was sufficient to produce 50,000 tons of gunpowder per month.

Second only in importance in nitrogen was the production of methanol, which is an essential product in the making of the most effective explosives, - hexogen and nitropenta. Farben produced all of the methanol in Germany. The report of the Army Ordnance Office of February 1939 showed the planning of additional facilities for the production of hexogen by Farben at that time. As early as 1935, Farben developed hexogen and constructed an experimental factory to gain manufacturing experience. This was in close collaboration with Dynamit A.G. and Army Ordnance. Hexogen has no substantial peace-time use.

Farben produced all of the stabilizers in Germany. These products are essential to preventing premature explosion of gunpowder. The construction of stand-by plants for stabilizers was planned by Farben in conjunction with the Army Ordnance department of the Wehrmacht as early as 1935. The production planned even at that early date has been estimated as sufficient to sustain production of 11,875 tons of gunpowder per month.

Much conflicting evidence has been presented as to whether Farben and its subsidiaries produced most of the high explosives and gunpowder used by the German forces. The evidence shows that Dynamit A.G., Wasagchemie, Verwertchemie and Deutsche Sprengchemie produced most of the high explosives and gunpowder from raw material and intermediate products of Farben. Heinrich Schindler, a defense witness who was Chief Engineer in the Dynamit A.G., testified that based upon detailed compilations made by him, subsidiaries of Farben produced 92% of all explosives used by Germany from 1930 to 1944 and 86.5% of all gunpowder during the same period. For the year 1938, they produced 82.5% of all explosives and 100% of gunpowder.

It was seriously contended, however, that Dynamit A.G., the largest producer of explosives, was an independent enterprise for which Farben was in no way responsible. I have carefully reviewed the evidence and concluded that the control of Dynamit A.G. rested with Farben and it cannot escape responsibility for the direct production of explosives in the war program. The elements of control of Dynamit A.G. by Farben included (1) financial through its holding of 50.5% of total preferred and common stock and a contract dated 17 September 1926; (2) "organizationally" through being grouped in Sparte 3 under defendant Gajewski, who was a member of the Aufsichtsrat of the Dynamit A.G. (1936-1945), and through defendant Schmitz, who was a member of the Aufsichtsrat (1926-1945) and Chairman of the Aufsichtsrat of Dynamit A.G. from 1938 on, and Paul Mueller, Director

General of Dynamit A.G. being a member of TEA of Farben; (3) economic through its dependence upon Farben plants for their intermediates for the production of explosives and gunpowder and the requirements that Dynamit A.G. had to get approval of Farben for expansion or construction of new plants and replacement of machinery; and, (4) other devices of control. As to the relationship of Farben and Dynamit A.G., the evidence compels the conclusion that for all practical purposes Dynamit A.G. was a subsidiary of Farben under its effective control. It should be noted that Dynamit A.G. controlled still other enterprises in the explosive field, including Vertwertchemie, admitted by the defense to be "a 100% subsidiary company to DAG," and described by defense as "the center of the armament production of the DAG-Konzern."

Synthetic Gasoline

Farben had expended enormous sums of money on the development in the experimental stage of its process for the production of synthetic gasoline. Prior to Hitler's seizure of power, the synthetic oil program was under attack in the Nazi press. The defendants Buestefisch and Gattineau in 1932 went to see Hitler and received assurances that the attacks would cease and that the program would receive his support.

Following the accession of Hitler to power an agreement was entered into on 14 December 1933 between Farben and the Reich Ministry of Economics under which Farben received a guarantee both as to price and volume of sales in connection with the production of synthetic gasoline. The agreement was of such importance that it had to be submitted to the personal attention of Hitler. Farben started large-scale expansion in the production of synthetic gasoline at the Leuna plant in the spring of 1933. The defendant Buestefisch has stated:

"I do not forget the day of the year 1933" ... "when I could accept from the Reich Government in Berlin the order now to proceed and expand with all possible energy the production of benzine, which for reasons inherent in political economy could not be fully developed prior to the taking-over of power. From that day on we find ourselves in this invariably great experience of expanding our industry, in a measure heretofore unknown."

While it is undoubtedly true that considerable peace-time expansion in gasoline production was warranted in connection with increased motorization of Germany and the autobahn construction, it is also true that the military considerations were inextricably connected with synthetic oil program and the military

importance rapidly became the predominating consideration. As early as 11 October 1934 General Bockelberg, Chief of the Army Ordnance Office, conferred with Farben representatives Knauch, Schneider and Buestefisch regarding measure to be taken in the fuels field in the event of war. To expand the basis of production Farben became a co-founder of the Brabag and issued licenses to that company under its hydrogenation patents. Farben developed high-grade aviation gasoline for the Luftwaffe. Further Reich subsidies were obtained. The military significance of the synthetic oil program was stressed by Goering at the meeting of 26 May 1936, attended by the defendant Schmitz, already referred to above.

The Military Economic Staff of OKW in a report of January 1939 observed that "...mineral oil is just as important for modern warfare as airplanes, armored vehicles, ships, weapons and munitions..." An official report prepared by the Enemy Oil Committee for the Fuels and Lubricants Division Office of The Quartermaster General of the United States Army in March 1945 on Petroleum Facilities of Germany correctly summarizes Farben's contribution in the field of synthetic gasoline and lubricating oils as follows:

"The outstanding feature of German oil economy during the past ten years has been the spectacular development of her synthetic oil plants for the production of oil from coal. This attempt at complete oil autarchy, made without regard to cost or orthodox financial considerations, has no parallel elsewhere and is a striking example of the character of the German master plan for world domination which called for the production, within her own boundaries, of all the resources essential to modern warfare. ..."

Synthetic Rubber.

Equally effective in the equipping of the Nazi military machine was Farben's activity in the field of synthetic rubber production from coal. Following development of the experimental process numerous conferences were held between Farben representatives and such Reich agencies as the Army Ordnance Office and the Reich Ministry of Economics during 1933 to 1935. As a result of these negotiations an intensive program to produce synthetic rubber in large quantities was developed and was subsequently expanded during 1936 and 1937 with the aid of various Reich subsidies as the possible military needs became more numerous and urgent. The volume of planned production in this field was far beyond the needs of peace-time economy. The huge costs involved were consistent only with military considerations in which the need for self-sufficiency without regard to the cost was decisive. Military and political considerations were controlling

in the development of this program. The truth of the matter is stated by the witness Elia when he testified that the German Army "placed practically their entire dependence on Farben's synthetic rubber." There can be no doubt that Farben's production of synthetic rubber made it possible for the Reich to carry on the war independently of foreign supplies, an accomplishment which would have been impossible without Farben's synthetic rubber development. The defendants Krauch, ter Meer and Ambros were particularly active in the development of this phase of Farben's contribution to preparing Germany for war.

Light Metals

As early as 1933 the Reich Air Ministry was giving consideration to the requirements of material for fighter aircraft, and State Secretary Milch, at a discussion in the Air Ministry on 15 September 1933,

"...expressed his agreement with the proposals to bring in new firms for the manufacture and especially approved the installation of a new tube rolling mill, of the enlargement of production at Bitterfeld and of a new electron metal finishing plant on the basis of Magnesium-chloride. This applied also to the manufacturing preparations for Thermite which would become necessary. When it was pointed out the high costs which would be incurred for manufacturing preparations, State Secretary Milch declared that the necessary means would be made available.

"With regard to the very high replenishment requirements in electron metal bombs, it was pointed out on the part of Wa A that the manufacturing preparations would presumably necessitate the erection of a number of new electron metal works and probably even new electric power plants which could not be maintained by peacetime orders."

In that same year the cooperation of Farben with the Reich Air Ministry began. Dr. Ernst Struss, Secretary of the Technical Committee of the Vorstand of Farben, who appeared as a witness both for the Prosecution and Defense, said:

"In 1933 I.G. received from the Luftwaffe the order to build magnesium plant with the capacity of 12,000 tons a year. The Luftwaffe selected the site in Aken. The plant was partly completed in 1934 when production started. The plant and its production was to be kept secret by order of the Luftwaffe.

"The negotiations for the construction of the plant by I.G. were carried on between the Luftwaffe and Dr. Pistor of Bitterfeld. Subsequently Dr. Pistor received from Schmitt a kind of blank approval to carry on with the negotiations. This procedure was not usual at that time. The financial arrangement with the Luftwaffe had already been made before the project was submitted to the TEA. ...

"The total investment for magnesium and aluminium in Aken amounted to about 46,000,000 marks; and for magnesium alone it amounted to about 40,000,000 marks. I.G. furthermore obtained a special concession from the Ministry of Finance authorizing I.G. to provide for an annual 20% depreciation on machinery in the plant. The normal depreciation was 10% and so I.G. obtained a considerable advantage.

"Before the plant was actually built, the Luftwaffe carried out a number of tests from the air in order to ascertain how the plant itself, could best be camouflaged. In accordance with the result of these tests in which Bitterfeld's chief engineer, von der Bey, participated, the plans for the plant were repeatedly changed until the Luftwaffe was satisfied that the plant was well hid from the air. Dr. Pistor subsequently stated in the TNA that considerable additional costs had to be incurred by I.G. on account of the camouflage requirements.

"Also by order of the Luftwaffe, I.G. started planning in 1934 another magnesium factory, for which the Luftwaffe selected Stassfurth as its site. Construction of the plant started in 1935 and it was completed in 1938. ... The production capacity for magnesium was 13,000 tons a year since 1942. The total investment amounted to 50,000,000 marks. The Luftwaffe financed the construction by granting a credit of 44,000,000 marks. Here again the Ministry of Finance agreed to increased depreciation at the rate of 20% yearly.

"For Aken as well as Stassfurth, I.G. was permitted to charge to the Luftwaffe an increased amount over the cost price and the normal profit in order to be able to repay the credits out of the accrued extra profits."

While on the witness stand, Dr. Struss stated that the credit of 44,000,000 Reichsmarks referred to from the Luftwaffe was for both the Aken and Stassfurth plants. At another time, Dr. Struss said:

"3. ...Shortly after start of production in Aken, probably in the summer of 1935, I visited Aken as well as Bitterfeld and noticed that without doubt practically the entire production was stored there in the form of tubes and packed into cases. These tubes had a diameter of 8 cm, a 1 cm wall and a length of 20 cm. Without doubt these tubes were parts for incendiary bombs. These tubes were packed into standardized boxes and were called 'Textile Shells' (Textilhuelsen). Everybody laughed, whenever somebody spoke about, or mentioned, 'Textile Shells' (Textilhuelsen). The meaning was common knowledge, and therefore everybody grinned whenever 'Textile Shells' (Textilhuelsen) were transported through the plant.

"4. Aken as well as Stassfurt had been built with loans made by the Air Force (Luftwaffe); and the I.G. Farben was given five years for the repayment of the loans and special amortization privileges. The Airforce (Luftwaffe) also paid much more than the cost price for magnesium and took the entire production of the plants. During the first two years' existence of Aken at least 90% of the magnesium produced in Aken and Bitterfeld were made into these tubes and shipped out...."

In 1938, arrangements were made between Farben and the Reich Air Ministry for "a second milling plant for Bi IV/1-powder." Bi IV/1-powder is explained as a powder consisting of aluminum and magnesium half and half used in flares and incendiary bombs. In a letter from the Reich Ministry of Aviation and Commander in Chief of the Luftwaffe to Farben, dated 7 September 1938, it was stated:

"...It is to be planned for a monthly production of 75 tons of Bi IV/1-powder under the mobilization program. It must be expressly confirmed by you that the total production in the event of mobilization will amount to 150 tons monthly in both plants.

"II. Implementation of your Plan.

"In enlarging your Bitterfeld plant to the size necessary for the above mentioned task, all measures necessary to ensure the quickest possible commencement of production are to be taken."

With reference to the quantity of production of magnesium and aluminum by Dr. Farben, Dr. Struss said:

"In 1930 the Magnesium production of I.G. Farben amounted to 600 tons. In 1942 the production was 25,100 tons. Farben had thus increased its magnesium production by over 4,000 per cent.

"Farben's share in the aluminum production in 1930 was 1,750 tons and in 1942 it was 24,000 tons. The increase in Farben's aluminum production was therefore just over 1,300 per cent."

The report of Dr. Eberhard Neukirch on the "Development of Light Metals Industry within the Four Year Plan" dedicated to the defendant Dr. Krauch shows that by 1939 the Farben plants of Bitterfeld, Aken and Stassfurt had reached a capacity of 17,100 tons per year of magnesium and that expansion plans were already projected for increasing the existing plants by 16,900 tons per year and the erection of an additional plant at Gersthofen by Farben with a capacity of 6,000 tons per year. In 1932 Farben produced 1,400 tons of aluminum; in 1939, 16,500 tons and in 1943, 24,000 tons. Thus, it appears that the capacity of Farben plants for the production of light metals increased manifold during that period.

As is pointed out by Dr. Neukirch in his report, with the conquest of Norway, Farben undertook to carry out additional plans for increased production of light metals in Norway through the exploitation and use of facilities of Norsk Hydro.

Chemical Warfare Agents

While so far as is known poison gas was never used in World War II, Farben participated extensively in experiments and in preparing for and producing poison gas during the years immediately preceding and during the war. The defendant Ambros may be credited with having participated in dissuading Hitler from the use of poison gas.

There was a close relationship and interlocking of preliminary products needed for the manufacture of explosives, gunpowder and chemical warfare agents. Farben's contribution to the preparation for chemical warfare included research, development and production of mustard gas, tear gas, nitrogen mustard gas, adamsite (throat irritant) and phosgene. The development and production of chemical warfare agents were closely related to and were coordinated with the production and development of other chemical war material. The contract between Farben and Orgasid, dated 22 July 1935, for the production of Ethyl-oxide from alcohol and the production of polyglycol M from Ethyl-oxide, under which Farben was "to give all chemical technical advice...including the experimental work which may become necessary," is a typical example. In 1936 and 1937 there was continued planning with reference to research and production of chemical warfare agents. There is in evidence a detailed "accelerated plan" dated 30 June 1938 outlining an acceleration of the expansion program for the production of many chemical products including chemical warfare agents. Following his appointment by Goering as "his Plenipotentiary in this field of work," Krauch in a communication to the Ludwigshafen plant of Farben dated 26 August 1938 urged the early completion of building projects for several chemical products, including mustard gas, "for which no postponement of the deadline set for their completion can be tolerated."

The capacity of planned poison gas plants on 1 September 1939 for which Farben was responsible was over 75% of total capacity, and by December 1942, Farben's share was estimated by the Krauch office to be 90%.

The evidence in the record makes it abundantly clear that the predominant responsibility for research and production in the field of chemical warfare agents immediately preceding and during the war was that of Farben.

Expansion of Plant Facilities

The rearmament program required an enormous outlay of capital for expansion of plant and production facilities. To meet those demands, special financial

arrangements were made by Farben with the Reich taking into consideration the nature of the plants and their equipment, their purposes and the amount of capital required. The records of Farben show, generally speaking, that three different plans were used: (1) Contract plants for which loans were obtained from the Reich or a Reich agency chiefly for the construction of new plants under arrangements whereby the loan was paid off over a period of years by the allowance of depreciation write-offs at an accelerated pace and rate. Under this plan the loan was actually paid off through the increased price paid for the products of the plant. Among the expansions so financed were plants at Bitterfeld, Aken, Rottweil and in the Leuna Works; (2) four-year plants, built with Farben funds on order from the Reich under arrangements whereby either: (a) the Reich agencies refunded to Farben the cost of construction by the payment of annual installments under a redemption plan fixed by contract, or (b) Farben was permitted by the contract to include increased rates of depreciation in the calculation of prices until the cost of installation had been absorbed. Expansions under this plan were not independent plants but were extensions of existing Farben plants; (3) other forms of governmental financial aid to Farben including: (a) subventions paid to Farben for carrying out special building projects, (b) proceeds tax, as from buna sales, which could be used in construction of other plants as was the case of the Auschwitz buna plant, or (c) tax concessions for new products, as for cellulose at Wolfen and for buna at Schkopau and Huls, and (d) East Relief Tax Decree allowing liberal exemptions from appraisal of investments.

The agencies used by the Nazi Government in carrying out arrangements for expansion of plants and production facilities included the Reich-owned companies of "Montan" and "Wifo." Often the contracts for construction and operation of such plants by Farben included Wifo or Montan as a party. Of the 37 Montan chemical works, 36 were built and operated by Farben and its subsidiaries. Witness Zeidelhack estimated that the capital value of those works alone totalled 1.2 billion Reichsmarks. He also said that "of a total of 76 chemical projects of the Army Ordnance Office, no less than 75 were executed by the I.G. and either operated, or controlled by them."

Zeidelhack further said that in the development of the expansion program, Farben "disclosed a particularly pronounced initiative in finding building sites and in the drawing up of specific plans. Without the intensive co-operation of the I.G., including the DAF, and its experience and initiative, the carrying out of the chemical projects of the Army would have been impossible."

While Wigo was predominately a Reich company, Farben owned one-fourth of the "foundation capital." Wigo had to do primarily with production and storage of critical war material, such as sulphuric acid and nitric acid, and the establishment of stand-by plants, commonly called shadow plants, which were to be put in extensive production only in the event of war.

In the minutes of the TEA meeting held in Berlin on 30 June 1943 is a review of the condition of Farben plants on account of destruction by bombing. It shows such a possibility had been contemplated in working out the expansion program since 1933. It is said in those minutes:

"The increase in existing production which has been going on since 1933, and the assimilation of new manufactures, gave early cause for the basic decision to be made to set up new large plants for this purpose, which, apart from new manufactures, should take over also products which had already been manufactured in the old I.G. Farben plants. In the field of organic-chemical goods, Schkopau was founded in 1935, where, together with Buna production, large-scale manufacturing of phthalic acid, acetic acid anhydride, vinyl chloride, and Igalit was planned, in order to cut out further increases in western production. The foundation of the major plants

1938 Landsberg
1938 Huels
1938 Moosbierbaum
1939 Heydresbreck
1941 Auschwitz

followed, whose location and production program were chosen from the outset in such a way that they would take over such manufactures as already existed in other, principally western, plants."

With reference to financing of new plants, witness Dencker said that Farben "took the position that the total facilities available at that time [1934] were sufficient to cover the peace-time needs." As a consequence, Wigo was formed "to expand the production of nitric acid, for which I.G. was not prepared to furnish its own means." All these plants, however, were operated by Farben.

It is evident that no consistent policy was followed by the Reich and Farben with reference to the financial arrangements made for the expansion program. Generally when the expansion was outside of, or exceeded, the peace-time requirements

of Farben, some special financial arrangements were made to lighten the financial burden on Farben and make the program financially attractive.

The minutes of the Vorstand of Farben for 25 September 1941 show that Farben expended for new construction for the period from 1932 to 1941 two billion Reichsmarks.

The evidence shows that of the many Farben diverse products, the following were strategically important war materials: Nitrogen (Ammonia N), Diglycol Explosives Gunpowder, Synthetic Gasoline, Tetraethyl-lead, Synthetic Rubber, Magnesium, Aluminum, Poison Gas, Sulfuric Acid, Chlorine Caustic Soda and Potash, Calcium Carbide, Sodium Cyanide, Stabilizers, Methanol, Other Solvents. Farben's records show an enormous expansion of its production facilities for those materials in the years from 1932 to 1944. In 1932, Farben's investments for production of those materials was 4,901,000 Reichsmarks; in 1933, it was 12,215,000 Reichsmarks (almost three times as much); in 1938, it was 225,238,000 Reichsmarks (about 45 times as much); and, in 1943, it was 421,500,000 Reichsmarks (more than 86 times the 1932 investment).

From a mass of statistical and detailed information in the record in this case emerges a picture of gigantic proportions depicting feverish activity by Farben in a warlike atmosphere of emergency and crisis to rearm Germany in disregard of economic considerations and in complete sympathy with any demands made upon it by the Nazi regime. There is nothing in this record to suggest that Farben and these defendants ever withheld any energy or initiative that was calculated to help Hitler in plans to build a Germany that would be strong enough militarily to master the world.

(e) Stockpiling of Critical War Materials

In this summary of Farben's cooperation in the rearmament of Germany, reference has repeatedly been made to the stockpiling of critical war materials. As early as 1934 Farben began stockpiling war materials in cooperation with the Government's program of economic preparation for war. From that time on, Farben pursued and increased its program of stockpiling of strategic materials. Beginning in 1935, periodic reports of stockpiling of "iron pyrites" were made by Farben to the authorities; beginning in the summer of 1935, tubes for incendiary bombs were stored at Aken under the guise of textile shells; from an inspection report dated 11 September 1935, entitled "Nickel Factory Oppau", copy of which went to defendants Krauch, Haefliger, and Gattineau, plans for "a large supply of nickel-copper-ore for stockpiling" were reported.

The defendant Haefliger was especially active in obtaining import of nickel by exploiting Farben's international cartel arrangements. Farben had a contract with The Mond Nickel Company Limited of England, for delivery to Farben of a quantity of nickel each year. The minutes of a conference at Ludwigshafen, attended by defendant Haefliger, concerning the stock of nickel, on 5 April 1939, comments that the reports to the English company as to the consumption of nickel in Germany "should no longer be made in the hitherto detailed form" as "Berlin is very much against such reports"; the minutes refer to "tendency in Berlin to import into Germany...nickel raw materials from another source, the import of which is not linked up with such suspicious conditions from a military economic point of view." In a memorandum by defendant Haefliger, dated 19 October 1939, is set out a contract with the International Nickel Company of Canada, which the memorandum states controlled approximately 85% of the world's production of nickel, whereby "IG succeeded in persuading the trust to store a very considerable supply of nickel concentrate...in Germany at its own expense, for the benefit of IG"; in that memorandum Haefliger commented that up to the last days before the outbreak of the war, the International Nickel Company had taken no "steps to eliminate the risk, to the tune of several million marks, involved in storing such quantities."

In 1935, Farben undertook the construction of a bomb-proof gasoline depot for the storage of gasoline, and in 1936, at the request of the German government Farben, taking advantage of its close relationship with Standard Oil Company, arranged to buy twenty million dollars worth of gasoline, the funds for which were furnished by the Government in order to build up its stock of gasoline. In July 1938, tetraethyl lead also was obtained from America. In regard to that transaction, witness Henze of Farben said:

...
"At the request of the Air Ministry and on direct order of GOERING, I.G. FARBEN procured in 1938, 500 tons of tetraethyl lead from the ETHYL EXPORT CORPORATION, of the United States. The Air Ministry needed this lead because it is indispensable to the manufacture of high octane aviation gasoline and because they wanted to store up the lead in Germany to tie the Air Ministry over until such time as the plant in Germany could manufacture sufficient quantities. We were producing sufficient quantities of tetraethyl lead for ordinary purposes but the storage of the 500 tons of tetra-ethyl lead was undertaken because in case of war Germany did not have enough tetra-ethyl lead to wage war for which reason the German Reich pursued a stock-piling policy.

...
"Finally, it was decided to procure the tetraethyl lead on a loan basis. All the gentlemen were very bewildered as GOERING demanded a report by noon the next day. It was commonly known that tetraethyl lead was needed as the German production in tetra-ethyl lead while sufficient for peacetime purposes, was not sufficient to wage war, and we had to obtain it immediately for aviation gasoline."

In November 1938, Verrittlungsstelle W sent circular letters to various plants of Farben notifying them of the requirements of the Reich Economic Ministry that insofar as possible three weeks' stock are to be stored in addition to the normal stocks "so that in the event of mobilization production can be continued as a result of accumulation of stocks."

It is clear from the evidence in the record that, in cooperation with the Reich agencies, Farben carried out through the years preceding the war an extensive program of stockpiling of strategic and critical war materials in anticipation of the requirements if war should come. Farben utilized its international connections in carrying out such stockpiling often concealing the true objectives of the transactions.

(f) Use of International Agreements to Weaken Germany's Potential Enemies

In the conduct of its world-wide enterprises, Farben had numerous contacts and arrangements with business concerns of other countries. Through cartel agreements, plans for sharing of patent rights, association of interests and many other reciprocal arrangements with business enterprises throughout the world, Farben was in a strategic position to serve the expanding purposes of the Nazi Government.

Among these international agreements was a contract between Farben and the Standard Oil Company of New Jersey under which Standard Oil Company acknowledged Farben's supremacy or priority all over the world in the chemical field and Farben deferred to Standard Oil's leadership in oil everywhere except in Germany.

In a letter dated 9 November 1929, Mr. Teagle, President of Standard Oil, referring to the agreement of that date, set out an understanding of the intentions of each party "to hold itself willing to take care of any future eventualities in a spirit of mutual helpfulness" and more particularly he said:

"In the event the performance of these agreements or of any material provisions thereof by either party should be hereafter restrained or prevented by operation of any existing or future law, or the beneficial interest of either party be alienated to a substantial degree by operation of law or governmental authority, the parties should enter into new negotiations in the spirit of the present agreements and endeavor to adapt their relations to the changed conditions which have so arisen."

This agreement of 1929 was followed in 1930 by another agreement, the purpose of which was stated to be "the desire and intention of the parties to develop and exploit their new chemical processes jointly on the basis of equality (50-50)!"

A jointly owned corporation called Jasco was organized to develop any processes turned over to it either by Standard Oil Company or Farben. It was agreed by the parties to the contract that the development of synthetic rubber processes, as well as the developments in the synthetic rubber field, should be turned over to Jasco.

Early in the Nazi regime, indications of limitations imposed upon the relationship of German enterprises with those abroad began to appear. However, Farben continued its policy of negotiating and making international agreements within their field of interest. On 9 March 1934, Farben wrote Chemnyco, its subsidiary in New York, in connection with the view which "the German Government takes of international agreements about technical collaboration" that "we should ...not allow foreign industry to gain the impression that in this respect we are not free to negotiate."

In a memorandum dated 24 June 1935, concerning a conference held on 21 June 1935 between Farben and the Army Ordnance Branch at Ludwigshafen-Oppau, it was said:

"The I.G. is bound by contract to an extensive exchange of experience with Standard. This position seems intenable as far as developmental work which is being carried out for the Reich Air Ministry is concerned.

"Therefore the Reich Air Ministry will soon conduct an extensive examination of applications for patents of the I.G.

"Furthermore, the I.G. will suggest the necessary security measures to the Reich Air Ministry under special consideration of the situation."

Even though the conflict between the obligation of Farben under its agreements with Standard Oil and the requirements of the German authorities was thus early realized by Farben, nothing was done by Farben frankly to inform Standard Oil of its situation and to "enter into any negotiations in the spirit of the present agreement and endeavor to adapt them relative to the changed conditions which had so arisen." Rather Farben pursued a policy, in cooperation with the Nazi Government, calculated to mislead the Standard Oil Company. Howard of Standard Oil had occasion to express the understanding of his company concerning these contracts with Farben in a letter dated 27 July 1936 in which he said: "The arrangement is one which necessarily requires good will on both sides."

On 14 July 1937, there was a meeting at the Wehrmacht office on "maintaining secrecy on improvements of I.G. processes in the production of motor fuel and lubricants which are of importance to national defense" attended

by Farben representatives. A report of that meeting said:

"Since the production of this oil is expensive, there has so far been no interest in this process, particularly since the special quality advantages cannot be seen from the registrations. By keeping the work being done towards the large scale exploitation secret it is possible to ensure that Germany has advantage.

"With regard to iso-octane too it is desirable that the establishment of installations in Germany is kept secret. On the part of I.G. Farbenindustrie it was mentioned in this connection that as soon certain products are ready for delivery in larger quantities (as will be the case with ethylene-lubricant as well with iso-octane in the near future) the existence of production plants can hardly be kept secret. If it does become known it would however lead to unpleasant international relations in view of I.G. Farbenindustrie's obligations to exchange know-how.

"The state of knowledge for the production of aviation gasoline, iso-octane and ethylene-lubricant on 1 July 1937 is being fixed in co-operation between the Reich Air Ministry and I.G. Farbenindustrie.

"I.G. will make no additional statements about the quality of the oils (aviation oil quality) which can be reached with regard to the ethylene-lubricant patent, which has actually been released, in order to justify its capacity for being patented.

"In consideration of its exchange of know-how agreements I.G. Farbenindustrie is permitted to inform its partners in the agreements in a cautious way shortly before the start of large-scale production that it intends to start a certain production of iso-octane and ethylene-lubricant. The impression is however to be conveyed that this is a matter of large-scale experiments. Under no circumstances may statements on capacity be made."

Following a conference with General Thomas, defendant Bueteffisch submitted a memorandum agreed upon with General Thomas dated 25 January 1940. In it, defendant Bueteffisch said:

"This exchange of know-how which is still being handled in the usual way by the neutral countries abroad even now and which is transmitted to us via Holland and Italy firstly gives us an insight into the development work and production plans of the companies and/or their countries and at the same time informs us about the stand of technical development with regard to oil. In these know-how reports drawings and technical details about the most varied subjects, are passed to us. The contractual obligations mean that we too must make our experiences with regard to oil available abroad within the framework of the Agreement. Up to now we have carried this exchange of know-how out in such a way that from our side we have only sent reports which seemed unobjectionable to us after consultation with the OKW and Reich Ministry of Economy and which contained only such technical data as concerned facts which are known or out-of-date according to the latest stand. In this way we have managed the handling of the agreements so that in general the German economy remained at an advantage.

"In order to maintain the contact with neutral countries abroad and/or the oil companies located there, we consider it expedient to continue this exchange of know-how in the form drawn up, retaining on our part the guiding principle that under no circumstances must any know-how of military or military-political importance get abroad in this way. In all cases of doubt contact with the Reich offices concerned must therefore be made. ..."

The record shows that this memorandum was initialled by General Thomas and signed by Goering under notation reading: "Director Dr. Buetefisch bears responsibility that nothing of importance to military or defense policy gets out." And in a letter dated 6 February 1940 from General Thomas to "Dr. Buetefisch, Vorstand member of I.G.Farbenindustrie A.G.," it said:

"It is however necessary that you yourself in your capacity as head of the Economic Group Motor Fuel Industry as well as Vorstand member of I.G.Farbenindustrie A.G. take over the responsibility for seeing that matters be kept secret in the interests of national defense do not become known abroad."

On 15 January 1942, defendant ter Meer wrote a letter to defendant Krauch giving "data on action taken by us in the United States regarding Buna." ter Meer said:

"In conclusion I should like to state that except for the license agreement concluded with our ally, Italy, processes and experiences on the production of Butadiene and the manufacture of Buna S and N, were never made available abroad."

In that letter ter Meer enclosed several memoranda of conferences had with the German authorities before the outbreak of war. In a memorandum concerning a conference had at the Reich Economics Ministry on 18 March 1938, attended by defendant ter Meer, it is said:

"...Germany's going in for large-scale manufacture of Buna S, the realization abroad, especially in the U.S.A. that Buna S is a suitable tire rubber and, finally, the possibility - as it presented itself to the U.S.A. - to produce Buna S at prices approximately equal to the average price of natural rubber created an extraordinarily great interest in America for the whole problem. Conferences which up to now had the sole object of easing the minds of American interested parties and to prevent as much as possible an initiative on their own part within the frame of butadiene rubber were held with Standard, Goodrich, and Goodyear. We are under the impression that one cannot stem things in the U.S.A. for much longer without taking the risk of being faced all of a sudden by an unpleasant situation and lest we be unable to reap the full value of our work and our rights."

"The patent situation in the U.S.A. was described in brief outline. Our patents covering the agent for mixed polymerisation (Buna S and N) are very strong and do not expire until 1950 and 1951, respectively. We have, furthermore, the tire patents for Butadiene rubber. Therefore, as long as American experiments - which as we know very well are being carefully carried out by such important firms as Goodyear and Dow - remain within the above mentioned patent sphere there is no danger.

...

"The American Patent Law does not make licensing mandatory. It would nevertheless be conceivable that because of the extraordinarily great importance of the rubber problem for the U.S.A. and because tendencies for restoring military power are very strong there too, considering the decrease in unemployment, etc. a bill for a corresponding law might be submitted to Washington. We, therefore, treat the license requests of the American firms in a dilatory way so as not to push them into taking unpleasant measures.

...

"Pursuant to the above the possibility was discussed in detail, through strict reserve on our part to put the breaks on for developments in U.S.A., especially with a view to preserving secrecy in regard to other countries."

It appears from the evidence that Farben, especially the defendant ter Meer, did go through the motions of seeking permission from the German authorities to divulge the Buna process. It was in a dilatory manner, however, not in keeping with the professed relationship of good will and confidence between Farben and its foreign associates. In April 1938, defendant ter Meer wrote Howard of the Standard Oil Company as follows:

"In accordance with our arrangements in Berlin I have meanwhile taken up negotiations with the competent authorities in order to obtain the necessary freedom of action in U.S.A. with regard to rubber-like products. As anticipated those negotiations have proved to be rather difficult and the respective discussions are expected to take several months before the desired result is obtained. I will not fail to inform you about the result in due course."

On 20 April 1938, Howard wrote to ter Meer urging speed and said:

"My view is that we cannot safely delay the definite steps looking toward the organization of our business in the United States with the cooperation of the people here who would be the strongest allies, beyond next Fall - and even to obtain this much delay may not be too easy."

In October 1938, the minutes of the Ministry of Economics showed that use of patented Buna processes and know-how abroad was permitted with certain restrictions including obtaining consent for passing it abroad "Should fundamental new knowledge with regard to Buna be obtained,..." In a letter from Ringer, a Farben executive, to the defendant von Knieriem dated 28 September 1939, referring to a pending conference with Howard of Standard Oil at The Hague, it was said: "Dr. ter Meer thinks it is necessary to point out specifically that there will be no exchange of experience with respect to Buna;..."

A commentary, dated 6 June 1944, forwarded by defendant von Knieriem to several persons in Farben, including defendants Schmits, Ambros, Buettelisch and Schneider, is particularly significant. It refers to an article which appeared in America in the "Petroleum Times," written by Professor Haslam, declaring "that the Americans received processes from I.G. which were vitally important for the conduct of war." In the commentary it stated:

"In summary, it can thus be said concerning the production of aviation fuels, that we had to use methods which differed in principle from those of the Americans. The Americans have crude oil at their disposal and naturally rely on the products that are created in the processing of crude oil. In Germany, we start out on a coal basis and from there proceeded to utilize the hydrogenation of coal for the production of aviation fuel. As mentioned above, however, specialized information was not turned over to the Americans. Therefore, in contrast to Professor Haslam's assertions, hydrogenation proper was used in Germany, though not in America, for the production of aviation fuels. Beyond that it must be noted that particularly in the case of the production of aviation gasoline on an iso-octane basis, hardly anything was given to the Americans, while we gained a lot.

"The conditions, in the Buna field are such that we never gave technical information to the Americans, nor did technical cooperation in the Buna field take place.

"A further fact must be taken into account, which for obvious reasons did not appear in Haslam's article. As a consequence of our contracts with the Americans we received from them above and beyond the agreement many very valuable contributions for the synthesis and improvement of motor fuels and lubricating oils, which just now during the war are most useful to us, and we also received other advantages from them.

"Primarily, the following may be mentioned:

"(1) Above all, improvement of fuels through the addition of lead-tetraethyl and the manufacture of this product. It need not be especially mentioned that without lead-tetraethyl the present method of warfare would be unthinkable. The fact that since the beginning of the war we could produce lead-tetraethyl is entirely due to the circumstances that shortly before the Americans had presented to us with the production plants complete with experimental knowledge. Thus the difficult work of development (one need only recall the poisonous property of lead-tetraethyl, which caused many deaths in the USA) was spared us, since we could take up the manufacture of this product together with all the experience that the Americans had gathered over long years.

"(3) In the field of lubricating oils as well Germany, through the contract with America, learned of experiences that are extraordinarily important for present day warfare."

The defense seeks to characterize this evidence as "window dressing" deliberately planned to mislead the Nazi Government. In my opinion, it is an accurate appraisal of the evidence as to Farben's conduct with reference to its foreign associates in cartel agreements during the rearmament period and prior to the war with the United States to say that Farben, on the one hand, gave the appearance of adhering to the agreements with its associates, and on the other hand cooperated with the German authorities in withholding information as to experience and know-how coming within those agreements; that Farben often went through the motions of seeking permission from the authorities to comply with the agreements but with such dilatory tactics that delay resulted to the great disadvantage of the other powers and with resulting advantage to Germany. The contemporaneous documents of Farben and the German governmental authorities in evidence reveal a record of conduct on the part of Farben characterized by duplicity and lack of that candor and frankness contemplated by the relationship with Farben's foreign associates. Such conduct must have been expressly designed to delay the rearmament of Germany's enemies in preparation to meet and resist any Nazi aggression and, to some degree, undoubtedly contributed to this result.

(g) Propaganda, Intelligence and Espionage Activities

The far-flung organization of Farben was an ideal vehicle for carrying Nazi propaganda throughout the world. Soon after the Nazi rise to power in 1933, officials of Farben took the initiative in launching an extensive program. Defendant Ilgner organized a Circle of Economy Leaders, which cooperated with the Propaganda Ministry. This organization undertook to see that "the situation in 'new Germany'" would appear in a more favorable light abroad. Defendant Gattinesu said with reference to its activities:

"...It also was the task of the Circle of the Economy Leaders to prevent awkward actions of the Ministry of Propaganda and to substitute for them more suitable ones. The Circle of Economy Leaders was well qualified for this because its members knew the situation abroad well; they had good connections abroad and were acquainted with the mentality of the respective countries. The development of events in Germany had greatly disturbed the export policy and the representatives of industry were now wishing to counteract this unfavorable development by appropriate propaganda. One tried to shift the attention from political questions to cultural ones. To the Propaganda Ministry this development was very desirable because in that manner the connections which industry had abroad could be used for its purposes. Besides, it was an advantage to use people not known to be paid propagandists. This propaganda activity was financed not by the Propaganda Ministry but by the firms of the respective sub-department chiefs. In that manner I handled Scandinavia and Dr. Max Ilgner North America. Among other things also trips by foreign newsmen to Germany were financed. The negotiations with and the

payment to the propagandist Ivy Lee also occurred during that period. Payments made for such purposes were accounted for by Dr. Ilgner with the Zentral-Finanzverwaltung of I.G. and Geheimrat Schmitz was informed about them. Dr. Ilgner's Office was used as the business office of the Circle of Economy Leaders. Other propaganda organizations which had been established upon Ilgner's initiative are the Association of Karl Schurz and the Mitteleuropäische Wirtschaftstag. This activity of Dr. Ilgner's also was an expression of his efforts to make himself useful to the new man in power, thus to obtain a prominent position for himself. He was in a position to do this because as head of the NW 7 organization of I.G. he had an insight into all of I.G.'s affairs and he thus could be of service to other people and authorities. ..."

Several of the defendants were appointed to positions in the propaganda organizations. The appointment of defendants Mann, von Schnitzler and Gattineau to the Publicity Board of the German Economy was announced at a meeting held at the Propaganda Ministry on 30 October 1933 which was attended by Nazi officials and prominent representatives of the party and industry. The meeting was addressed by Funk, who had assumed the chairmanship of the Board, and Goebbels who urged the participants to go ahead in the spirit of National Socialist vigor and conviction." In 1934 defendant von Schnitzler was selected a member of the Aufsichtsrat of ALA, an advertising agency set up under state and party supervision.

In carrying out the propaganda program, defendant Mann sent a circular letter to all of the Bayer representatives abroad describing the achievements of the Nazi regime since its rise to power and the "miracle of the birth of the German nation"; in this circular appear the following statements:

"In view of the boycott propaganda abroad, which is still noticeable, although it has lost considerably in intensity, we are particularly desirous of describing to you in detail the actual conditions as they prevail under the new National Socialist government in Germany. We wish to express the hope that this report will supply you with important data, enabling you to continue to assist us in our struggle for the German conception of law. We ask you expressly, in connection with your collaborators and your personnel, to make use of these data in a manner which appears appropriate to you, to the end that all co-workers of our pharmaceutical business become familiar with these general, economic and political conceptions."

It was by such means that Farben undertook to direct its agencies and personnel abroad to influence opinion favorably towards the Nazi regime and thus help and support the furthering of the objectives of the Nazi program.

At a meeting of the Commercial Committee of Farben on 10 September 1937, attended by defendants Schmits, von Schnitzler, Haefliger, Ilgner, Mann and Oster, the organization of Germans abroad (A.O.) was discussed. Minutes of that meeting state:

"It is generally agreed that under no circumstances should anybody be assigned to our agencies abroad, who is not a member of the German Labor Front and whose positive attitude towards the new era has not been established beyond any doubt. Gentlemen, who are sent abroad, should be made to realize that it is their special duty to represent National Socialist Germany. They are particularly reminded as soon as they arrive, they are to contact the local or regional group (of Germans abroad) respectively, and are expected to attend regularly at their meetings as well as at those of the Labor Front. The Sales Combines are also requested to see to it, that their agents are adequately supplied with National Socialist literature.

"Collaboration with the A.O. (Organisation of Germans abroad) must become more organized...."

At a meeting of the Bayer Board of Directors held at Leverkusen on 16 February 1938, presided over by defendant Mann, he affirmed the favorable attitude. The minutes of the meeting state:

"The chairman points out our incontestable being in line with the National Socialist attitude in the association of the entire 'BAYER' pharmaceuticals and insecticides; beyond that, he requests the heads of the offices abroad to regard it as their self evident duty to collaborate in a fine and understanding manner with the functionaries of the Party, with the DAF (German Workers' Front), etc. Orders to that effect again are to be given to the leading German gentlemen so that there may be no misunderstanding in their execution."

Pursuant to such instructions, representatives of Farben abroad cooperated actively with the foreign organizations of the Nazi Party. Reports were made by those representatives to Farben of the various schemes and projects undertaken, which were approved and ratified.

During a trip to South America in 1936, defendant Ilgner was especially effective in developing a program of "Defense Against Fostering of Anti-German Sentiments in Latin America," as reported by a representative in a letter dated 27 January 1937. The program included the distribution of propaganda material through Latin America Chambers of Commerce, branches of German banks and other representatives of German economy. Other devices contemplated were the use of film, propaganda schools, and radio, the exchange of students, business men, scientists and artists, all as a means of carrying on

"important propaganda work towards Germany." Farben gave financial support to schools and cultural institutes abroad as well as chambers of commerce promoting the propaganda program.

The activities of Farben with reference to affairs in Czechoslovakia in 1938 are particularly significant as revealed by the minutes of the Conference on Czechoslovakia held on 17 May 1938 at Unter den Linden 82. In the minutes of that meeting, it is said:

"Seeborn gave an introductory report; he stated that after the incorporation of Austria in the Reich, tension had increased in the Sudeten-German parts of the country and that in all sectors of the population the political and industrial organizations were being re-constructed according to German pattern and to the tenets of National Socialism.

"It seemed expedient to begin immediately and with the greatest possible speed, to employ Sudeten Germans for the purpose of training them with I.G. in order to build up reserves to be employed later in Czechoslovakia.

"The Information Office(Nachrichtenstelle) had for some time been endeavouring to publish articles of general and particular interest in Sudeten German newspapers and to this end was making use of the 'Wirtschafts- und Zeitungsdienset G.m.b.H.', a company sponsored by the German authorities. These articles were intended to serve as a preparation for a gradual financial strengthening of the Sudeten German newspapers by advertisements.

"Proposed action: The Information Office, in collaboration with the sales combines would specify the newspapers which were to be sponsored, inasmuch as they were suitable for advertising our marketable products. The papers were then to be supplied with articles by the Information Office and given advertisements for insertion in order to support them financially.

"Furthermore, those newspapers which had political importance and periodicals which published articles and reports with a general bias in favour of I.G. without actually giving publicity to our products, were to be supported by being given items for publication as regularly as possible."

A report of this conference was given to the members of the Commercial Committee at a meeting of that Committee on 24 May 1938 attended by defendants Schmitz, von Schnitzler, Hasfliger, Ilgner, Gattineau and Kugler, and at the same time the minutes of that conference were distributed to the members of the Commercial Committee. These minutes indicate a knowledge of possible Nazi intentions with reference to Czechoslovakia and show that Farben used its financial power in an effort to influence public opinion in that country in complete harmony with the Nazi sponsored agitation.

Thus it appears that Farben, through the energetic use of its foreign representatives and contacts and the power of its financial backing, was an active instrument in furthering the Nazi propaganda program in a wide variety of directions and willingly cooperated in various forms of Nazi intrigue.

Of even greater importance to the Nazi program was the energetic initiative of Farben through the use of its foreign connections in intelligence and espionage activities. Farben worked closely with the intelligence of the Wehrmacht, called the Abwehr, and financed institutions abroad in the service of that agency. Both before and during the war, Farben was zealous in its efforts to obtain and furnish the Wehrmacht militarily important information. The Central Finance Administration (ZEF), commonly called "Berlin NW 7," had been organized by the defendant Ilgner in 1927 and was gradually enlarged to include the Economic Research Department (VOWI), the Political Economic Policy Department (WIPO) headed by defendant Gattineau, and the Bureau of the Commercial Committee (BdKA). This organization, through its incomparable sources of information all over the world, collected and compiled detailed information in various countries concerning the most important branches of industry and particular enterprises, including the purposes of the undertaking, the financial structure, products, capacity and location. The material thus assembled probably surpassed that of any other institution in Germany in extent and quality and was made available to several agencies of the government regularly. Often VOWI, at the request of the Military Economic and Armament Staff, made thorough investigations abroad. Witness Bannert said:

"...As an example of this, I would mention the investigations that were made in the autumn of 1939 concerning the Toluol capacities in England and France and the study at the beginning of 1940 on the effect of the stoppage of fodder imports on Danish agriculture. We were also asked at this time for pictures and maps of the industrial plant in enemy countries. As we did not possess these, we had to limit ourselves to making photostatic copies from the rarely published drawings and photos in the different technical publications and placing these at the disposal of the Military-Economic and Armaments Staff. I remember that once during the war we were asked to explain, with the aid of an air photograph, the lay-out of the Clifton Magnesium Works in England, in preparation for a bombing attack. We passed on the advice of a gentleman from Bitterfeld, who was familiar with the works lay-out."

Concerning Farben as a source of information, General Huehnermann said:

"Another of our sources of information was the Economics Department of the I.G. Farbenindustrie A.G. (Volkswirtschaftliche Abteilung)...The Economics Department of the IG co-operated with us by putting their work, such as reports on countries, detailed reports on raw materials, developmental prospects, at our disposal. Since the Economics Department of the IG had an excellent and highly qualified staff of collaborators we also addressed to this office inquiries on subjects above which we assumed they were informed. (Inquiries during the war about America's nitrogen production, etc.)"

The furnishing of information by Farben to the Wehrmacht during the months preceding the premeditated attack on Poland is significant. In the weekly report to the Office of Military Economy appear these items:

"6 - 7 March: Discussion with Dr. Fernau of the I.G. Farben, on the English and French oil supplies.

"14 April: ...Inception of I.G. Farben study 'Rumanian Mineral Oil' and 'Greater Germany and the Economic Spheres of the Bohemia-Moravia protectorate and of Czechoslovakia.'"

"14 June: . Discussion with Dr. Fernau of I.G. Farben. Submission of the essay on Cyprus and discussion on the utilisation and exploitation of the I.G. Farben records and library. In accordance with Fernau's statement, the records and library are at the disposal of the WStb at any time.

"24 August: ...Discussion with the Leader of the Economics Department of the I.G. Farbenindustrie Aktiengesellschaft, Doctor Reithinger, as well as Doctors John and Fernau of the I.G., on the closer co-operation envisaged.

"The I.G. made all their archives and printed material available for exploitation and furthermore declared themselves prepared to answer questions put to them, which must be kept as brief and concise as possible. Written questions are to be sent through the Office of Military Economy Group VIII to the office controlling the scope of the I.G.'s activities.

"26 August: ...Discussion with Dr. von der Heyde, Commissioner for Abwehr of the I.G. Farbenindustrie Aktiengesellschaft, Berlin, on the sphere of activities of Dr. Krueger, Betriebsfuehrer of the I.G. Farbenindustrie Aktiengesellschaft Berlin, who came to the WStb for the reinforcement of mobilization.

*25 August: ...Discussion at the Office of Military Economy, Group VIII, Captain Dose, Dr. Holshauer, with Dr. Reithinger, Dr. John. Dr. Fernau's suggestion of using the Economics Department, together with archives, of the I.G. Farbenindustrie for the W Stb's purposes was accepted by Captain Dose. Request for brief description of Poland's situation with regard to raw material stocks and a description of the Reich's increased security against blockade through the Berlin-Moscow non-aggression pact. (Descriptions are promised)."

From the minutes of the meeting of the Commercial Committee of Farben on 12 November 1940, attended by defendants Schmits, von Schnitzler, Haefliger, von der Heyde, Ilgner, von Kriesen, Kugler, Mann, ter Meer and Oster, it appears that von Schnitzler made a report of the "work recently prepared by the National Economics Department for various government and military offices." The minutes state:

"...During the discussion following this the Commercial Committee repeated its wish that the National Economics Department should prepare this work in close cooperation with the sales combines and other IG Offices concerned."

On 2 March 1940, VWI made a report to the Military Economy Office setting out technological information concerning explosives and chemical warfare agents, including an estimate of production facilities of the United States.

The American company, Chemnyco, Inc., a company controlled by Farben personnel, was used extensively as a source of valuable information. The United States Department of Justice had occasion to investigate the activities of the Chemnyco Company during the war and made an official report of its findings. In that report, it is said:

"The simplicity, efficiency and totality of German methods of gathering economic intelligence data are exemplified by Chemnyco, Inc., the American economic intelligence arm of I.G. Farbenindustrie. Chemnyco is an excellent example of the uses to which a country with a war economy may put an ordinary commercial enterprise...."

There can be no doubt that Farben used its world-wide connections as a means of obtaining information of military value and furnished such information to the Wehrmacht to an ever increasing extent. Farben in that regard gave enormous help to the preparation for and the waging of aggressive wars conducted by Germany.

(h) Steps Taken in Anticipation of War for Protection of Farben's Foreign Holdings by Camouflage and Projection of Plans for Economic Domination of Europe in the Chemical Field

In July or August of 1938 officials of Farben took up for serious consideration the matter of safeguarding their assets abroad in the event of war. According to Witness Kuepper, who was a member of the legal staff of Farben, that was "when the dark clouds called Sudeten crisis already appeared over the horizon." Several significant events had already occurred by that time which were consistent with the publicly proclaimed program of Hitler revealing what the IMT characterized as "the unmistakable attitude of aggression." The Treaty of Versailles had been repudiated by the Nazi government; the building of a military air force has been announced by Goering over three years before; for more than three years an army had been in the making since the enactment of compulsory military service in 1935; in defiance of the Versailles Treaty, the demilitarized zone of the Rhineland was entered by German troops in 1936; as was stated by the IMT, "At daybreak on 12 March 1938 German troops marched into Austria." Witness Kuepper said:

"There was no question of an aggressive war; there was a general feeling of the darkening of the general political situation, and the general talk not only was in Farben, but in the whole German public about the possibility of war; the kind of war, that was not discussed."

The talk of war by the German public at that time was natural in view of the public events during the recent years as above reviewed. Of course, it was not specifically discussed whether it was to be an aggressive war or a defensive war. The "possibility of war" was present in view of repeated aggressive acts committed by the Nazi government. Reasonable men were only being logical when they realized the prospect of war as a consequence of the policy being followed and began prudently to do what they could to protect their foreign assets in the event of war. Such a course of conduct was in keeping with the far-sighted intelligence always exhibited by Farben officials in managing and directing the Farben enterprise. Of course such conduct was not in itself the commission of the Crime against Peace, but it is significant as indicating the seriousness of the situation in the state of mind of officials of Farben when they undertook to map out the policy for the protection of the concern's foreign holdings. It shows a realistic appraisal of the foreign policy of Germany and an understanding of the imminent possibility of war.

Within two days after German troops had occupied Bohemia and Moravia, contrary to the agreements made at Munich in September 1938, the Legal Committee of

Farben, presided over by defendant von Knieriem, met in Berlin on 17 March 1939 to consider the problem of protecting Farben assets in foreign countries "in the event of war." The minutes of that meeting show that this Legal Committee made specific recommendations as to legal steps necessary to camouflage Farben assets abroad to prevent seizure in the event of war. In the minutes, it is said:

"See) If the shares or similar interests are actually held by a neutral who resides in a neutral country, enemy economic warfare measures are ineffective; even an option in favor of I.G. will remain unaffected. A sole exception arises if the neutral is placed on the 'blacklist,' since then the liquidation of the shares or similar interest may also be ordered. The English during the war made very sparing use of the authority to liquidate assets in the United Kingdom of a 'blacklisted' neutral inasmuch as such procedure invariably resulted in controversies with the government of the neutral involved, controversies which frequently were out of all proportion to the results obtained by such liquidation.

"This survey shows that the risk of seizure of the sales organizations in the event of war is minimized if the holders of shares or similar interests are neutrals residing in neutral countries. Such a distribution of holdings of shares or other interests has the further advantage of forestalling any conflicts troubling the conscience of an enemy national who will inevitably be caught between his patriotic feelings and his loyalty to I.G. A further advantage is that the neutral, in case of war, generally retains his freedom of movement, while enemy nationals are frequently called into the service of their country, in various capacities, and therefore can no longer take care of business matters.

"However, as far as possible with due regard to the other interests which call for our consideration, neutral influences should be strengthened in our agencies abroad by the transfer of shares or similar interests to neutral holders. If this is not possible, it seems advisable to transfer the shares or similar interests to parties who are nationals of the particular country and to provide for options on these shares or similar interests not in favor of I.G. directly but running to some neutral party with an ultimate option in I.G.'s favor."

"The adoption of these measures would offer protection against seizure in the event of war, although this protection may not be a complete one."

This indicates careful and thorough consideration by Farben of the whole problem of protecting foreign holdings in the event of war so as to reduce the hazard of loss to a minimum.

A summary of the minutes of that meeting were, on 8 June 1939, sent to several executives of Farben, including defendants von Schnitzler, ter Meer and Engler. In the evidence is a memorandum dated 22 July 1939, entitled "Safeguarding measures for the case of war", which refers specifically to Farben's holdings in Belgium, France, Egypt, England, United States of America, Canada, Australia and New Zealand. This was a memorandum of the Legal Department Dyestuffs.

During the summer months in 1939, preceding the invasion of Poland by Germany, Farben carried on an extensive correspondence with the Reich Ministry of Economics concerning the method of camouflage of foreign assets. In a letter dated 24 July 1939 written by Farben to the Reich Ministry of Economics appear these significant statements:

"The continuous watch which we have kept on the legal structure of our sales system abroad, and the necessity, - in view of political tensions - of paying special attention to the protection of our interests in case of a conflict with other powers, have convinced us that even the structure did no longer offer the necessary protection in those countries which were specially exposed to danger, among them particularly the British Empire.

"For these reasons we have come to the conclusion that real protection of our foreign sales companies against the danger of sequestration in wartime can only be obtained by our renouncing all legal ties of a direct or indirect nature between the stockholders and ourselves, - which at present give us the right of access to the stocks of our sales companies - and replacing these legal relations, by transferring the right of access to these assets to such neutral agencies as by virtue of their personal connections with us of many years standing, in some cases even covering decades, will give us the absolute guarantee that in spite of their complete independence and neutrality they will never dispose of these assets otherwise than in a manner entirely in accordance with our interests. This guarantee continues to exist even in the case of unforeseen technical or political complications rendering a discussion with us temporarily impossible, a discussion which in view of our friendly relations, would normally be a matter of course. The experiences we made during the war, have made it much easier for us to decide on this step. As an example for the fact that the only effective protection of our interests lies in the personal trustworthiness of our business friends abroad and not in legal obligations whatsoever, we shall only quote the following incident:

"After the entry of the United States into the World War, all the assets of our constituent companies in the United States were sequestrated and were, in the majority of cases, sold to competitors by the American Authorities; only this action provided the basis for the development of the American chemical industry of today. This was the situation when the representative of the Hoechst Farbwerke, General M.A. Metz, while fully observing his duties as an American citizen, staked his entire private property, - without being asked to and without any legal obligation - in order to buy the assets, in particular the patents belonging to the Hoechst Farbwerke, from the American sequestrator, and after the end of the war, in return

for his expenses, placed them again at the disposal of our constituent Company. Personality alone was the decisive factor in that situation, when, according to English and American laws of war, all contractual relations with the enemy were automatically severed by entry into the war."

In a communication dated 26 September 1940 to the Reich Ministry of Economics, Farben reported:

"...Only during recent years since about 1937, when the danger of a new conflict became more and more apparent, did we take pains to improve our camouflage measures, especially in the endangered countries in such a way that they should prove adequate even in the case of an armed conflict and at least prevent immediate seizure."

That letter was written by the Central Finance Department of Farben in Berlin following discussions to improve the system of camouflaging various sales companies of Farben in Latin America, concerning which defendants von Schnitzler and Ilgner were generally informed.

While there were other considerations prompting camouflage of holdings in foreign countries, the evidence clearly shows that a controlling reason, particularly in the years 1938 and 1939, was the prospect of war. Thus, in a memorandum dated 2 October 1940, Kuepper of the Farben Legal Staff, who testified personally before this Tribunal, said:

"After the victorious end of the war a long lasting political appeasement can be expected. But distinct possibilities cannot be a reason for camouflage any longer in view of the reasons against it, especially of a political nature."

Pursuant to the policy of camouflaging its assets abroad, Farben resorted to sham transactions to accomplish such purpose. An excellent example of the technique employed is set forth in the opinions filed in Standard Oil Co. v. Markham, 64 F. Suppl. 656 (District Court, S.D. New York), and Standard Oil Company v. Clark, 163 F.(2d) 917 (Circuit Court of Appeals, Second Circuit, September 22, 1947) wherein these important Federal Courts of the United States held that the transactions reached at the Hague Conference in September of 1939, between representatives of Farben and representatives of the Standard Oil (referred to as the Jersey group) were "sham transactions designed to create an appearance of Jersey ownership of property interests which, nevertheless, continued to be regarded by the parties as I.G. owned." The United States courts referred to specifically found:

"The parties intended that after the completion of the war and the resulting disappearance of the danger of United States Government controls the properties would be formally returned to I.G. and the prewar relationship resumed."

(1) The Activities of Farben in Acquiring Control of the Chemical Industry in Occupied Countries.

The evidence discussed in the Tribunal's judgment in connection with Count Two shows in detail the activities of Farben in the exploitation and spoliation of the chemical industry of occupied countries. Farben's New Order for the Chemical industry is indicative of the initiative shown by Farben in planning to acquire control of the key industries as additional territory came under the Nazi yoke.

In July 1938, the Political Economy Department of Farben(VOWI) completed a very full report on Aussig-Verein of Bohemia. On 21 September 1938 the office of the Commercial Committee of Farben wrote to all Vorstand members of Farben referring to the discussion at the Vorstand meeting on 16 September 1938 in Frankfurt and enclosed a preliminary statement on "location of the chemical industry in Czechoslovakia," and called attention to the report completed in July "which may be obtained from the Political Economics Department on direct request." On 23 September 1938, defendant Kuehne wrote to defendant ter Meer and defendant von Schnitzler saying:

"I learned from our telephone conversation this morning the pleasant news that you have succeeded in making the competent authorities appreciate our interest in Aussig and that you have already suggested Commissaries to the authorities - viz. Dr. Wurster and Kugler."

In a letter dated 29 September 1938, defendant von Schnitzler wrote defendants ter Meer, Kuehne, Ilgner, and Wurster, saying:

"You are informed about the general principles of the discussion which I have had at the end of last week with the Ministry of Economics; with Mr. KEPPLER, Secretary of State, and with the German Economical Board of the Sudeten-area, as to the situation of the Aussig-Union. The negotiations have been successful insofar as all parties acknowledged that as soon as the German Sudetenland comes under German jurisdiction all the works situated in this zone and belonging to the Aussig-Union, irrespective of the future settlement of accounts with the head office in Prague, must be managed by trustees (commissioners) 'for account of whom it may concern.' I pointed out that, in the first place the works Aussig and Falkenau are involved, and that, at least, the firm Aussig, but suitably also Falkenau, should be run exclusively by I.G., and that therefore I.G. already now, would lay claim to the acquisition of both works. ... Before coming to an understanding in regard to ownership, it would be necessary to maintain the technical and commercial activity by expert commissioners, and these commissioners can only be furnished by I.G. In accordance with TER MEER I proposed Dr. Carl WURSTER for the technical part and Dr. Hans KUGLER for the commercial part. This program was accepted by both the Ministry of Economics and the Foreign Organization of the N.S.D.A.P. on behalf of which Mr. SCHLONTERER himself (Ministry of Economics) could act."

The Munich Pact was signed 29 September 1938, and Germany occupied the Sudetenland pursuant to that pact. Farben's sympathy with the government's policy at this time is evidenced by a telegram from defendant Schmitz to Hitler reading:

"Profoundly impressed by the return of Sudeten-Germany to the Reich which you, my Fuehrer, have achieved, the IG Farbenindustrie A.G. puts an amount of half a million Reichsmark at your disposal for use in the Sudeten-German territory."

There is in evidence a memorandum of the "Management Division Farben" entitled "Preparations for the reshaping of the economic relations in postwar Europe," dated 19 June 1940. In that memorandum it is said:

"...The Examining Board of the chemical industry was commissioned by Mr. Schlatterer to submit to him as soon as possible a survey of the chemical industry in the following countries: France, Switzerland, England, Holland, Belgium, Denmark, Norway. ...

"If Farben had any special suggestions to make with regard to the lines on which the manufacture of dye-stuffs was to be organized in future in the countries in question, it would be useful if they would bring them forward on this occasion. (It was stated in conference that Herr U. remarked during the conference with Herr B. that European dye-stuff production after the war would probably be under the management of Farben). ..."

On 24 June 1940, defendant von Schnitzler wrote to several officials of Farben, including defendants ter Meer and von Knieriem, especially asking them to attend the meeting of the Commercial Committee to be held on 28 and 29 June in Frankfurt on Main, in which he said:

"...I include a copy of the invitation for those gentlemen who, although not members of the Commercial Committee are herewith cordially invited to be also present on 28 June. The main topic of our conference, described under No. 1 of the agenda as 'Report on Economic Policy' (Wirtschafts-politischer Bericht) is the discussion of the problems of economic policy that were made pertinent through the speedy development of the events of war in the west. A specific inquiry has been received from the Reich government requesting that in the shortest possible time a program be developed outlining a system to be established by, and based on, the impending peace treaty, and covering the entire European interests in the field of chemistry. ..."

The minutes of that meeting, held on 28 and 29 June 1940 at Frankfurt, show that of the defendants in this case the following were present: von Schnitzler, Gattineau, Ilgner, von Knieriem, Kugler, Mann, ter Meer and Oster. The minutes further show that a comprehensive and broad discussion was had concerning the future of the chemical industry in many countries and that it was determined that all offices of the I.G. and Konzern companies are to be asked for suggestions on all matters pertaining to economy reorganization of the following countries, to-wit: (a) France, (b) Belgium and Luxembourg, (c) Holland, (d) Norway, (e) Denmark, (f) Poland, (g) the Protectorate, (h) England and the Empire.

A memorandum dated 20 July 1940 was transmitted by order of defendant von Knieriem concerning: "1. Suggestions for the Peace Treaty as regards the protection of industrial rights" and, "2. Position of the German Reich patent in a European economic sphere under German control." Under the second item the memorandum said:

"The position of the German Reich Patent in a European economic sphere under German control.

"The peace treaty will cause far-reaching changes in the political and economic structure of large parts of Europe. One can perhaps assume that under German leadership a Greater European Area (Europaischer Grossraum) will be established, which besides Greater Germany will include a number of additional states each retaining its own government. This Greater European Area will represent an economic unit and possibly will later have a uniform system of customs duties and currency. One could not possibly retain this diversity of laws for the protection of industrial rights in such an economically unified area. ...

"The most complete solution which could be regarded as ideal would be to create one uniform patent for the entire European area under German control by regulating the formal and material patent right by a single law, the development of which would be reserved to the German legislator, and the Reich Patent Office would remain in existence as the only patent authority.

"1) Of course the idea is to extend the German patent over the entire area. ...

"4) ...In order to ensure uniformity of decision, only the Reich Supreme Court should act as the court authorized to handle appeals with respect to legal issues; suits for nullification and perhaps, following the Austrian example, also problems concerning dependency, should be judged only by the Reich Patent Office and by the Reich Supreme Court...."

On 3 August 1940, Farben transmitted to the Reich Economic Ministry the "New Order Plans," in a letter signed by defendant von Schnitzler. It is a comprehensive report dealing generally with "the situation of the world economic forces which may be expected in the new order of the international chemical market," in which it was said:

"2. ... This major continental sphere will, upon conclusion of the war, have the task of organizing the exchange of goods with other major spheres and of competing with the productive forces of other major spheres in competitive markets - a task which includes more particularly the recovery and securing of world respect of the German chemical industry. ...

"The part which is arranged according to countries, includes primarily those countries with which negotiations concerning a fundamental new order may, in keeping with the military and political developments, be expected within a reasonable period of time under the armistice or peace terms, to wit: (a) France, (b) Holland, (c) Belgium/Luxembourg, (d) Norway, (e) Denmark, (f) England and Empire."

The same report contains a more detailed discussion about "the position of I.G. Farbenindustrie concerning the question resulting from the Franco-German relationship in the chemical field in regard to production and sales." In the course of the discussion of the New Order with reference to France is the following significant language:

"...It will, however, appear all the more justifiable in planning a major European spherical economy, again to reserve a leading position for German chemical industry commensurate with its technical economic, and scientific rank. The decisive factor, however, in all planning relative to this European sphere will be the necessity of securing determined and effective leadership in the discussions which must necessarily be conducted with the other major spherical economies outside of Europe, the contours of which are already distinctly drawn at this time.

"In order to guarantee that the chemical industry of Greater Germany and the European Continent can assert itself in such discussions, it is urgently required clearly to appreciate the forces which, in the world market, will be of decisive importance after the war.

"...As a matter of basic principle, therefore, we are of the opinion that the French chemical industry should retain its own existence in the coming new order, but that the artificial barriers which have been erected against German imports by means of excessive import duties, quotas and the like, should be removed. It will likewise be necessary to base ourselves on the premise that, in general, exports of the French chemical industry should be maintained only by way of exception and insofar as they had already formally been established, i.e. prior to the beginning of the world economic crisis, and that French activities should consequently be restricted to the French domestic market.

"The preceding survey on the development and situation of the individual branches of the French chemical industry plainly shows that the chief obstacle blocking German interests in the French market was to be found in the field of commercial policy. If, therefore, participation in the French market - the remaining colonies, protectorates and possible mandated territories included - corresponding to the importance of the German chemical industry is to be built up and maintained, then this aim can be achieved only by a fundamental change in the forms and media of French commercial policy in favor of German imports.

"III. CONCRETE PROPOSALS WITH REGARD TO CERTAIN FIELDS OF PRODUCTION.

"1. DYE STUFFS. - In order to achieve a New Order as planned and to compensate in part for damages suffered in and because of France, the best solution seems to be to bring about such regulation of French production and its marketing for all time to come by the participation of the German dyestuffs industry in the French dyestuffs industry, as to prevent further encroachment on German export interests. To this end concrete proposals could be made as for example, I.G. might be allowed to acquire 50% of the capital of the French dyestuffs industry from the Reich.

"(a) The German-French dyestuffs company or companies only shall be permitted to establish in France new plants for the production of dyestuffs (including lac dyes) or their intermediate products, or introduce new products into the plants already existing or to expand the latter. In addition the French Government is to issue a decree prohibiting the establishing of plants for the manufacture of dyestuffs and intermediate products.

"(b) As a general rule the output of the German-French company shall be intended for the French domestic and colonial markets only.

"...we have written to the Reich Ministry of Economics under date of July 13, 1940, that we have placed a trustee for these companies at its disposal.

"(b) Enforcement of a French quota and licensing system in favor of Germany which will have as its purposes that French demands for imports be supplied by Germany only.

"The granting of preference tariffs to Germany is not only a means of compensating the German chemical industry for damages suffered in consequence of the Versailles Treaty and of the trade policy based upon it; it is rather a necessary political instrument to be used in relation with non-European countries which, through a depreciation of their money and through other measures might be able to disturb the commercial agreements to be concluded with France. It must therefore be stressed particularly that the basic tariffs between France and other countries can be lowered only with German approval.

"LICENSES FOR THE CONSTRUCTION OF NEW PLANTS AND FOR THE EXPANSION OF EXISTING FACILITIES are imperative in regard to products which are important to the armament industry. We hope that the requiring of licenses for the production of these articles will be supplemented by rigid control of the production itself.

"The cooperation between German and French industry, which is the necessary basis for a sound and planned economy, can best be achieved - while continuing already existing agreements - by the creation of LONG-TERM INTERNATIONAL SYNDICATE AGREEMENTS, which would have to be preceded by the creation of French national syndicates. In contrast to previous arrangements between the German and French chemical industries, these syndicates should be under a unified and strong leadership, which because of the greater importance of the German chemical industry should be in German hands and should have its administration headquarters in Germany. The export of French chemicals would be handled exclusively by these syndicates, except for territories, to which the French industry may freely export the products in question or except in other cases to be defined precisely. The French chemical industry, limited now to supplying the domestic markets, may be asked to make compensations within the framework of the syndicate for possible export deficits."

In a letter to the members of the Commercial Committee dated 22 October 1940, defendant von Schnitzler with reference to the attitude of German officials towards Farben's suggested plans for the "New Order" said:

"...It is evident that our program for France was received very favorably by the official agencies. ...It is obvious that a similar program is desired for England before the end of the hostilities with her,..."

In August 1940, there followed detailed reports and recommendations for the "New Order" for Holland, Denmark and Belgium in the chemical field, following generally the pattern set out for the "New Order" of France, all in keeping with Germany's contemplated "leadership" and domination by Farben of the chemical field in Europe.

Thus we see unfolded Farben's carefully conceived plans to reap in full the industrial fruits of Hitler's policy of aggression. These plans for Farben and German "leadership" closely paralleled the plans of aggression and domination of the Nazi government in the political and military fields. Germany was to dominate Europe, and eventually the world, financially, politically and economically and Farben was to participate in the spoils on a permanent basis when peace should be established.

In summary, facts in the record abundantly support the assertions made by the prosecution that Farben and these defendants, (Members of the Vorstand) acting through the corporate instrumentality, furnished Hitler with substantial financial support which aided him in seizing power and contributed to keeping him in power; that they worked in close cooperation with the Wehrmacht in organizing and preparing mobilization plans for the eventuality of war; that they participated in the economic mobilization of Germany for war including the performance of a major role in the Four Year Plan; that they carried out activities indispensable to creating and equipping the Nazi war machine; that they participated in the stockpiling of critical war materials; that they engaged in vital propaganda, intelligence and espionage activities; that they used their business connections and cartels to strengthen Germany and to weaken the war potential of other countries; that they camouflaged and utilized assets abroad for war purposes; that they planned to take over the chemical industry of Europe and participated in plunder and spoliation of occupied countries; and, that they participated in the utilization of slave labor on a vast scale to strengthen the

German war machine. The ultimate conclusions reached in this opinion make it unnecessary to discuss in further detail the varying degrees of individual connection and responsibility for the particular acts of Farben with which the defendants who were members of the Vorstand were more particularly identified.

From the foregoing resume of the evidence, it can be said that I.G. Farben, in its substantial achievements constituting participation in the rearmament of Germany and in a variety of related activities, became integrated into the Nazi regime and made enormous contributions to the German war effort. The record bears abundant proof of the enthusiasm with which Farben undertook its portion of the task which was to make Germany into armed camp exceeding the strength of all its neighbors. Despite the numerous decrees and regulations reflecting the regimentation of the economy now relied upon as a defense, it is clear that Farben continued to enjoy much freedom of action and initiative in its spheres of responsibility. In the economic structure of the Nazi regime, Farben's position was one of top leadership. The record bears out the degree to which its activities became inextricably intertwined with activities of the political and military leadership. Farben collaborated in the economic regimentation without reserve. It is equally clear that in return it expected the support of, and rewards from, the regime. These circumstances tend to refute the defense of duress and governmental coercion impliedly accepted as a defense in the judgment of the Tribunal. This defense argument made insistently at the trial is at variance with the true facts as revealed by overwhelming evidence showing sustained and continued initiative by Farben in the armament field, and is further at variance with numerous instances of Farben's ability to influence the course of events where such action was deemed to be in the interest either of Farben or of the government program as a whole.

The irresponsible character of the Nazi regime, its constant emphasis upon violence, and its oppressive policies as the regime gained in strength, did not serve to deter the top leadership of Farben in supporting the regime, and these factors indicate how reprehensible was the course of action in which Farben, through the acts of these principal defendants, was engaged. Such action, however, is not criminal as constituting the Crime against Peace unless it can be said to have been in violation of international law as recognized in Control Council Law No. 10, the basic legal provision from which this Tribunal draws its jurisdiction.

III.

Article II of Control Council Law No. 10, in pertinent part, reads, as follows:

"1. Each of the following acts is recognized as a crime:

"(a) Crimes Against Peace. Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing."

This provision of the Control Council Law, like the Charter of the International Military Tribunal, is declaratory of pre-existing international law. It is not ex post facto legislation but reflects a further recognition of the development of an international custom pursuant to which aggressive war has come to be regarded as illegal. Participation in the acts covered in the quoted law constitutes a crime. This is the plain meaning of the London Agreement, of the Charter and the judgment of the IMT. Control Council Law No. 10, like the Charter of the IMT, recognizes that an individual may be held criminally responsible for the commission of Crimes against Peace. As a necessary corollary no distinction is to be drawn between a private citizen and public officials such as the political, diplomatic or military leaders of the State. Criminal responsibility is personal and individual under this conception.

Paragraph 2 of Article II of Control Council Law No. 10 provides:

"2. Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein, or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organization or group connected with the commission of any such crime or (f) with reference to paragraph 1(a), if he held a high political, civil or military (including General Staff) position in Germany or in one of its Allies, co-belligerents or satellites or held high position in the financial, industrial or economic life in any such country."

Literally construed, Control Council Law No. 10, paragraph 2(f), which is applicable only to Crimes against Peace, might be held to mean that the holders of high political, civil or military positions in Germany, or holders of high positions in the financial or economic life of Germany, are deemed, ipso facto, to have committed Crimes against Peace. The prosecution in this case disclaims any such literal construction and recognizes that criminal guilt does not attach automatically to all holders of high positions. No such literal interpretation could be

permitted. Paragraph 2(f) merely requires that the fact that a person held such a high position to be taken into consideration with all of the other evidence in determining the extent of individual knowledge and participation in Crimes against Peace. The provision does, however, serve to refute the contention that private businessmen or industrialists are excluded from the possibility of complicity in "Crimes against Peace" as a matter of law. Paragraph 2(f) does not shift the burden of proof which remains at all times with the prosecution. Neither does it change the presumption of innocence. It merely emphasizes an evidentiary fact to be weighed along with the sum total of the evidence.

Article I of Military Government Ordinance No. 7, under which this Tribunal is established, provides:

"The determination of the International Military Tribunal in the judgment in Case No. 1 that invasions, aggressive acts, aggressive wars, crimes, atrocities or inhumane acts were planned or occurred, shall be binding on the tribunals established hereunder and shall not be questioned except insofar as the participation therein or knowledge thereof by any particular person may be concerned. Statements of the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary."

Under the quoted provision, pertinent findings of the IMT in regard to aggressive wars and aggressive acts binding on the Tribunal for the purposes of the Crimes against Peace charged in the indictment in this case include: That aggressive wars were planned and waged by Nazi Germany against Poland on September 1, 1939; against Denmark and Norway, 9 April 1940; against Belgium, Holland and Luxembourg, 10 May 1940; against Greece and Yugoslavia, 6 April 1941; against the Soviet Socialist Republics, 22 June 1941; and against the United States of America, 11 December 1941.

It was further stated by the IMT in regard to Anschluss that Austria "was occupied pursuant to a common plan of aggression," and,

"...the methods employed to achieve the object were those of an aggressor. The ultimate factor was the armed might of Germany ready to be used if any resistance was encountered."

The provisions of the Control Council Law require the same basic elements for the commission of the Crime against Peace as are required under elementary principles applicable to criminal law. There must be an act of substantial participation and there must be the accompanying criminal intent or state of mind. Under Control Council Law No. 10, the building of armament or the development of the

"war potential" in the form of planning production of, or planning facilities for the production of, raw materials essential to the waging of war may constitute a sufficient act of participation to warrant affixing criminal responsibility to the act as planning and preparation for aggressive war. Such action must, however, be combined with the necessary intention to further the aim of aggressive war and, as contended by the prosecution, must constitute a substantial participation. As to the character of the knowledge required to constitute a state of mind amounting in law to criminal intent in relation to the Crime against Peace, with great ability, the prosecution has argued:

"In dealing with the act we have stated that anyone who bears a substantial responsibility for conducting activities which are vital to furthering the military power of a country participates in the crime. With respect to the state of mind, this is the knowledge that such military power will be used or is being used for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property or their personal freedoms.

"It is the position of the prosecution that in connection with the charges of preparation and planning and the charge of conspiracy it is sufficient if there exists the belief that although actual force will be resorted to if necessary, such purpose will be accomplished by using the military power merely as a threat; and that it is not essential that the defendants know precisely which country will be the first victim or the exact time that the property rights or the personal freedoms of the peoples of any country will be under attack.

"10. A separate question which need not be discussed here concerns what type and quantum evidence is necessary to establish beyond a reasonable doubt that any particular defendant knew at any particular time that Germany's military power would be used for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property and their personal freedoms. It is sufficient to note here that the prosecution does not contend that the wide publicity given to the program and aims of the Hitler movement over a period of years is enough in itself to establish beyond a reasonable doubt that the average person within Germany had the required knowledge. And the evidence must establish more than knowledge of the aggressive program and aims of the Nazi government and belief that there was a possibility that force would be used to carry out the policy of aggrandizement. It must establish beyond a reasonable doubt that the defendants believed that actual force would be employed if necessary to achieve such policy."

The test of guilty participation in the Crimes against Peace for which the Nazi Government was responsible was stated in the judgment of the International Military Tribunal as follows:

"The argument that such common planning cannot exist where there is complete dictatorship is unsound. A plan in the execution of which a number of persons participate is still a plan, even though conceived by only one of them; and those who execute the plan do not avoid responsibility by showing that they acted under the direction of the man who conceived it. Hitler could not make aggressive war by himself. He had to have the co-operation of statesmen, military leaders, diplomats, and business men. When they, with knowledge of his aims, gave him their co-operation, they made themselves parties to the plan he initiated. They are not to be deemed innocent because Hitler made use of them, if they knew what they were doing. That they were assigned to their tasks by a dictator does not absolve them from responsibility for their acts. The relation of leader and follower does not preclude responsibility here any more than it does in the comparable tyranny of organized domestic crime."

This broad test of participation in the common plan or conspiracy is, in my opinion, equally applicable to the charges of participation in the planning and preparation of aggressive war. The inquiry must be whether there is knowledge of the "aims" of Hitler. In this regard participation in the policies, planning and purposes of the Nazi regime, as such, does not of itself constitute the Crime against Peace. There must be participation after concrete plans for the waging of aggressive war have been arrived at and there must be in the mind of the individual sought to be charged a positive knowledge of the intention to resort to aggressive war. It is not necessary, as contended by the defense, that there be knowledge of specific plans for aggressive war against specific countries as of a certain time. Nor is it necessary that an exact knowledge of the order of the victims of aggressive war be shown. It will suffice if the ultimate aim to resort to aggressive war is known or believed at the time of substantial participation but such knowledge or state of mind must be established by convincing proof beyond reasonable doubt. Furthermore, in this stage of the development of international law denouncing the Crime against Peace it is preferable for a Tribunal to err on the side of liberality in the application of the rule of reasonable doubt.

Analysing the contention advanced by the prosecution, I conclude that, however desirable such a legal conception of the requisite of knowledge might be as a matter of policy in international law, the proposition advanced in this definition of state of mind is too broad and goes beyond the provisions of Control Council Law No. 10. The relationship between acts of aggression, backed by threats of force, and the evil of aggressive war is sufficiently immediate to warrant serious consideration of the standard proposed in the further delineation of legal aspects of the Crime against Peace. I cannot conclude, however, that because the

individual defendants knew that the German policy of territorial aggrandizement, backed by military power, was being carried out in the absorption of Austria and Czechoslovakia that such knowledge constituted the state of mind or the criminal intent required for the commission of the Crime against Peace. I agree with the prosecution's contention that the evidence in this case does establish that most, if not all, of the defendants knew or believed that military power would be used as a threat to force territorial concessions from Czechoslovakia, Poland, and other nations in favor of Germany. The evidence does not, however, establish beyond reasonable doubt that the defendants actually knew or believed that force to the point of aggressive war would actually be resorted to if necessary. The argument of the prosecution, carried to its logical conclusion, would mean that, in the cases of Austria and Czechoslovakia, these defendants might have been held guilty of the Crime against Peace even though actual aggressive war did not result from these aggressive acts. It is true that in the case of the defendant Raeder the International Military Tribunal dismissed the contention that Raeder did not have the requisite guilty knowledge because he contended that he believed Hitler would obtain a political solution to Germany's problems without the necessity for actual warfare because of the overwhelming might of Germany. But, it must be borne in mind, that Raeder, through attendance at a conference at which Hitler specifically announced his plans to wage aggressive war, if necessary, had actual knowledge that the then head of the State had decided to embark upon a program of aggression and to pursue it even to the point of engaging in actual warfare to achieve the objective of territorial aggrandizement. In the case of the Farben defendants, while they knew that acts of aggression had been and were being carried out in connection with Austria and Czechoslovakia, and, in fact, the defendants participated in acquiring industries resulting from the acts of aggression mentioned, it cannot be concluded that such action necessarily amounts to the requisite knowledge or state of mind constituting plans to wage aggressive war. Activities of the defendants in this case, conceding that they were of material aid in bringing about territorial aggrandizement by use of threats of force, do not under the circumstances of this case constitute the Crime against Peace. It is incumbent upon the prosecution to go further with its evidence and to prove by specific evidence that the individual defendant sought to be charged was aware of a plan to resort to aggressive war if necessary to achieve the objective of territorial aggrandizement. Similar conclusions must be advanced with reference to the invasion

of Poland, the aggressive act immediately resulting in World War II. Here, the evidence is not conclusive to the effect that the defendants actually knew of a decision to absorb Poland by force, which would be actively pushed to the point of war, if necessary, to achieve the objective of territorial aggrandizement. As the Polish crisis developed, the defendants certainly knew or were charged with knowledge of the fact that methods of aggression were being employed. There were threats of force to their knowledge. But there existed the possibility that with stiffening resistance war might not result because the aggressor would not continue the policy to the point of open warfare. The evidence does not otherwise conclusively connect the individual defendants with the planning and preparation of any of the other aggressive wars waged by Germany with specific knowledge of the decision to initiate such aggressive wars.

Accepting as sound that portion of the DMT judgment which specifically holds that rearmament of itself is not a crime unless carried out as part of a plan to wage aggressive war, I also conclude that the action of the defendants constitutes participation in armament under circumstances not proved beyond reasonable doubt to have been with actual knowledge of Hitler's ultimate aim to wage aggressive war. Despite strong inferences to be drawn from much of the evidence as applied to some of the individual defendants, as to intent and knowledge, the extraordinary standard of proof which probably should be exacted in this stage of the development of the Crime against Peace is not clearly met and, for this reason, I concur in the acquittals under Count One to charges of planning and preparation of aggressive war. Criminal connection with the decisions of the Nazi regime to initiate aggressive wars has likewise not been established.

There remains only the question of whether any defendant is to be held guilty of "waging" aggressive war. This is the portion of the prosecution's case which is the most difficult for the defendants to meet. From the time of the invasion of Poland the defendants knew or were chargeable with knowledge that the wars being waged by Germany were aggressive wars and the substantial contribution of the defendants to the conduct of those wars cannot be successfully denied. The prosecution, not without considerable logic and weight of argument, relies upon the activities of the defendants in connection with both spoliation and slave labor as constituting an integral part of the waging of aggressive war. In the latter connection there is some analogy between the activities of certain of the defendants in the field of spoliation and slave labor and those of Hermann Goehring, convicted under Control Council Law No. 10, by an International Military

Tribunal in the French Zone of occupation under charges of "waging" aggressive war. (Judgment rendered 30 June 1948 by the General Tribunal of the Military Government of the French Zone of Occupation in Germany in the case against Hermann Roechling et al.) In that case Hermann Roechling was held not guilty of the charges of preparation of wars of aggression. The evidence against him established that he had attended several secret conferences of Goering in 1936 and 1937 and had pushed the utilization of low grade ore which did not pay commercially in the important steel industries under his direction. The Tribunal held that the act of preparing armament did not necessarily imply, as the DMF held, that the purpose was to launch a war of aggression. It concluded on the facts that it had not been shown by the proof that Hermann Roechling was ever informed that wars of aggression would be undertaken, and that there was no showing that he had ever participated in the preparation of wars of aggression. However, the Tribunal held that he was guilty of waging wars of aggression for the following reasons:

"After the invasion of Poland in 1939, of Denmark, Norway, Belgium, Luxembourg and the Netherlands in 1940, of Yugoslavia, Greece and Russia in 1941, none could any longer have any doubts concerning the purpose of the wars unleashed by the Government of the Reich, that the aggressive character of these wars has, moreover, been recognized by the aforesaid judgment of the International Military Tribunal."

The Tribunal held that Roechling had stepped out of his role of industrialist, demanded and accepted high administrative positions in order to develop the German ferrous production. The facts then recited are that he became Plenipotentiary General for the steel plants of the Departments of the Moselle and Meurthe-et-Moselle Sud; that he seized industries having steel production of nine million tons and employing more than two hundred thousand people; that after allocation by Goering of the seized plants he endeavored to increase production of these plants for the war effort of the Reich; he made proposals to Reich authorities concerning increased production of iron; that he was later placed in charge of the Reich Association Iron, charged with intensifying the German ferrous production and exploiting such production in the occupied countries; that exercising his powers he demanded of industry in occupied countries that they work in order to increase the armament of a power at war with their own country. He was held guilty of crimes against peace because by his actions he "contributed in a large measure to the continuation of aggressive wars during three years." The Roechling decision is, therefore, an authority for the view that participation in the exploitation of occupied countries in the interest of the German war effort under the

circumstances referred to does constitute a crime against peace. However, I conclude that facts in evidence against the present defendants present a difference of degree sufficient to distinguish the cases. I do not feel warranted in expressing dissent as to the acquittal of the present defendants of the charge of waging of aggressive war based solely upon the Hoeschling case.

It is impossible, in my view, to harmonize those aspects of the judgment of the International Military Tribunal dealing with the waging of aggressive war so as to draw therefrom a consistent principle governing the waging of aggressive war as used in the Charter and the Control Council Law. In dealing with the case of Doenitz, the IMT, after concluding that there was no evidence establishing that Doenitz was informed of decisions to wage aggressive war, nevertheless, held Doenitz guilty of waging aggressive war by virtue of participation in submarine warfare immediately upon the outbreak of war. In contrast, Speer's activities as head of the armament industry after aggressive war was well underway did not result in conviction. Said the IMT as to Speer:

"His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged in Count I or waging aggressive war as charged in Count II."

It may seem illogical that a high naval officer, performing the duties of the branch of the armed service which he heads, should be found guilty of the waging of aggressive war and the minister of munitions and armament held not responsible for activities which in most cases are even more vital to the waging of war than the tactical decisions required of the military commander. The compulsion of military discipline in a nation at war was certainly more real and less the object of choice in the case of the naval officer than in the case of the civilian armament minister. But in default of sufficient evidence to warrant conviction under the charge of planning and preparation of aggressive war it would not be logical in this case to convict any or all of the Farben defendants of the waging of aggressive war in the face of the positive pronouncement by the International Military Tribunal that war production activities of the character headed by Speer do not constitute the "waging" of aggressive war. Nor is there a valid answer in extent and the indispensability of the Farben contribution to the German war effort. Speer's acquittal when considered in the

light of Schacht's acquittal poses insuperable obstacles to the conviction of these defendants. The factual differences which may be drawn based upon Farben's substantial and sustained contribution to the German war effort do not, in my opinion, lead to a difference in result unless this Tribunal refuses to follow the implications of Speer's acquittal. Despite the cogent arguments based upon other portions of the IMT judgment, I reach the conclusion that the precedent in the case of Speer should be followed here and that the defendants should not be convicted solely of the crime of waging of aggressive war.

For the reasons stated I concur in ^{the} acquittal of all defendants under Counts One and Five of the indictment.



Paul M. Hebert
Paul M. Hebert
Judge, Military Tribunal VI

MILITÄR GERICHTSHOF NR. VI

Fall Nr. 6

DIE VEREINIGTEN STAATEN VON AMERIKA

- gegen -

CARL KRAUCH u. Gen.

FILED

28 December 1948

Secretary General

U.S. Military Tribunal
Nürnberg

ZUSTIMMENDE URTEILSBEGRÜNDUNG

VON

JUDGE PAUL M. HERBERT

zu

PUNKT EINS UND FÜNF DER ANLAGESCHRIFT.



Militärgerichtshof No. VI der Vereinigten Staaten

JUSTIZPALAST, NÜRNBERG, DEUTSCHLAND

Die Vereinigten Staaten von Amerika

gegen

CARL KRAUSE, HERMANN SCHMITZ :
 GEORG VON SCHWITZLER, FRITZ GAJEWSKI, :
 HEINRICH KÖRBER, AUGUST VON KNISLIEM, :
 FRITZ KESLER, CHRISTIAN SCHEIDER, :
 OTTO KROGGS, ERNST BUEHLER, HEINRICH :
 FRIEDRICH, PAUL KÄTZIGER, MAX ILGNER, :
 FRIEDRICH JÄGER, PAUL KUEHN, CARL :
 LAUREN SCHLAGER, VILHELM KAHN, :
 FRIEDRICH GÖNN, CARL WÜRSTER, WALTER :
 DIERCKHOF, HERMANN GATTIGER, ERICH :
 VON DER WIEDE, AND. PAUL KUEHLER, :
 Beente der I.G. FARBEINDUSTRIE :
 ANTEILIGESCHAFT

Fall No. 6

Angeklagte

JUSTIFIZIERENDE URTEILSBEGRÜNDUNG.Punkt I und V der Anklageschrift.

1.

Bei der Verkündung des Urteils in diesem Prozess am 29. und 30. Juli 1948 stimmte ich dem vom Gerichtshof gefassten Beschluss, alle Angeklagten unter Anklagepunkt I und V (die Punkte betreffend Angriffskriege) freizusprechen, behielt mir aber das Recht vor, eine besondere Urteilsbegründung einzureichen, da das Urteil zu diesen Anklagepunkten sachliche Schlussfolgerungen und Erklärungen enthielt, mit denen ich nicht übereinstimme und die sich in vieler Hinsicht von dem Standpunkt, der sich zu einem freisprechenden Urteil gelangen lässt, unterscheiden. Aufgrund dieses Vorbehalts wird hiernit die vorliegende Urteilsbegründung eingereicht.

In diesem Prozess, der die gerichtliche Hauptverhandlung gegen 23 als Hauptkriegsverbrecher angeklagte Personen darstellte, ist es wichtig, nicht nur ein Urteil über die Schuld oder Unschuld der Angeklagten zu fällen, sondern auch einen genauen Bericht über die wesentlicheren durch die Beweisaufnahme festgestellten Tatsachen abzulegen. Der Umfang des Aktenmaterials macht die letztere Aufgabe zu einer schwierigen. Was den Anklagepunkt betr. der Angriffskriege

- 1 -

betrifft, so kann ich, obgleich ich den Freispruechen zustimme, den sachlichen Schlussfolgerungen des Gerichtshofs nicht beipflichten, die meiner Meinung nach den Akteninhalt ⁱⁿ /der Richtung einer zu vollstaendigen Entlastung und Freisprechung von jeder, sogar von moralischer Schuld in einem von mir nicht als gerechtfertigt erachteten Umfang missdeuten. Die Geschichte der I.G. Farben Industrie A.G. waehrend der in diesem lange sich hinsiehenden Prozess infrage stehenden Periode war, wie gezeigt worden ist, eine hasserliche Geschichte, die in ihrer Sympathie und ihrem Einsatz fuer das Naziregime weit ueber die normale Geschaeftstaetigkeit, als die die Angeklagten sie jetzt hinstellen versuchen, hinausgeht. Handlungen solcher Art, wie sie die meisten der Angeklagten, die verantwortlichen Fuehrer der I.G., waehrend der Vorbereitungszeit und waehrend der darauffolgenden Fuehrung der Angriffskriege Nazi-Deutschlands begingen, koennen weder entschuldigt werden noch sollte ihr Zusammenhang mit den vom Nazi-regime begangenen Verbrechen gegen den Frieden verkleinert werden. Ich komme jedoch zu dem Schluss, dass die einzelnen Angeklagten auf Grund des Beweismaterials nicht der im Kontrollratsgesetz Nr. 10 unter Strafe gestellten Verbrechen gegen den Frieden schuldig sind, ganz gleichgueltig, wie sehr auch die von der I.G. und ihren einflussreichen Fuehrern dem Naziregime gewachte Unterstuetzung und Ermutigung dazu beitrug, erstens den Krieg vom Produktions-Standpunkt aus gesehen, zu ermoeeglichen und zweitens, den Krieg, nachdem er durch Hitlers Aggressionen gegen Polen entfesselt worden war, zu verlaengern. Ein wichtiger Faktor fuer meine Zustimmung zu dem festgestellten Ergebnis ist, dass ich es fuer notwendig erachte, dass man sich solchen bedeutsamen Praezedenzfaellen beuge, wie es der Freispruch Schachts und Speers von der Anklage auf Verbrechen gegen den Frieden durch das Internationale Militaergericht war, der Freispruch der fuehrenden Beamten Krupps von aehnlichen Beschuldigungen durch den Gerichtshof III und der Praezedenzfall neueren Datums, aufgestellt durch einen Internationalen Gerichtshof in der franzoesischen Besatzungszone, durch die Freisprechung fuehrender Beamter des Hoechling Konzerns von der Beschuldigung der Teilnahme an der Planung und Vorbereitung von Angriffskriegen.

Solche Präzedenzfälle, zusammen mit einer ausserordentlich liberalen Anwendung der Regel vom "vernünftigen Zweifel" zu Gunsten der Angeklagten, wozu noch wegen der Neuheit des Verbrechens gegen den Frieden ein gewisses Widerstreben kommt, auf dem ausserordentlich wichtigen Gebiet des Wissens von dem Verhaben des Angriffskrieges und der ausdrücklichen Absicht auf Förderung eines solchen Verhabens, dem Angeklagten ungünstige Schlüsse zu ziehen, führen zu dem Freispruch. Ich stimme bei, trotzdem ich mir bewusst bin, dass bei dem enormen Umfang des dem Gerichtshof vorgelegten glaubwürdigen Beweismaterials, wenn es sich bei den hier zur Entscheidung stehenden Fragen wirklich um etwas ganzlich Neues handeln würde, andere Beurteiler des Tatbestandes, die eher dazu geneigt waren, solche in gewöhnlichen Strafrechtprozessen angebrachten und üblichen Schlüsse zu ziehen, leicht zu einem gegenteiligen Resultat hätten kommen können. Ich stimme nicht mit dem Mehrheitsbeschluss überein, dass das in diesem Prozess vorgelegte Beweismaterial so weit davon entfernt ist, ausreichend zu sein, wie es die Urteilsbegründung des Gerichtshofes anzudeuten scheint. Die Tatbestands-
so sehr
fragen stehen auf des Messers Schneide, dass man sich wirklich ernstlich fragen muss, ob bei der ungeheuren und unentbehrlichen Rolle, die diese Angeklagten nachgewiesene^{der} Massen bei dem Aufbau der Kriegsmaschine, die Hitlers Aggression ermöglichte, gespielt haben, wirklich der Gerechtigkeit entsprechen werden ist oder nicht. Die auf Veranlassung bestimmter Angeklagter erfolgte Vernichtung von wichtigen I.G. Akten hat die Anklagebehörde wahrscheinlich wesentlicher Bindeglieder in ihrer Kette des belastenden Beweismaterials beraubt und ruft das Gefühl hervor, dass möglicherweise ein anderes Ergebnis angebracht wäre, wenn die vollständigen I.G. Akten der Anklagebehörde bei den jetzigen Kriegsverbrecherprozessen zugänglich wären.

In Bezug auf den ueberaus wichtigen objektiven Tatbestand bei den Handlungen und der Tatkraft der Angeklagten fühlte ich mich gezwungen, mich mit dem Freispruch einverstanden zu erklären, der auf dem Zweifel begründet war, ob die Angeklagten tatsächlich wussten und

glaubten, dass ihre Beihilfe zur Aufrüstung Deutschlands das Verbrechen der Teilnahme an der Planung und Vorbereitung fuer einen seiner Natur nach aggressiven Krieg darstellte. Darueber hinaus folge ich den Schlussfolgerungen die aus dem Freispruch Speers als eines Praezedenz-Falles fuer den Freispruch der Angeklagten von der Anklage der "Fuehrung von Angriffskriegen" zu ziehen sind. Dass die Angeklagten wussten, dass sie Vorbereitungen fuer einen moeglichen Krieg trafen, ist sicher. Dass ihre Handlungen in dieser Hinsicht nicht der normalen Taetigkeit von Geschaeftleuten entsprach, ist genau so klar. Die I.G. betoelligte sich an einer vollkommenen Umgestaltung der wirtschaftlichen Struktur in eine solche der Kriegswirtschaft. Die Moeglichkeit eines Krieges stand ihnen immer vor Augen. Es wurde jedoch kein ueber jeden vernuenftigen Zweifel hinaus klarer und eindeutiger Beweis ueber ihre genaue Kenntnis des Beschlusses des Regimes zur Entfesselung und Fuehrung von Angriffskriegen beigebracht. Die I.G. verfolgte unter der Fuehrung dieser Angeklagten einen Kurs, der nachgewiesenermassen tatsaechlich der Sache des internationalen Friedens in vieler Hinsicht entgegengesetzt war, einen Kurs der unbekannten Misachtung moeglicher und wahrscheinlicher Folgen ihrer Handlungen. Solch ein Verhalten in einer kriegsverfuehlten Atmosphaere zu Gunsten eines Diktators, der seine kriegerischen Absichten trotz widersprechender Friedensbotouerungen vielfach bekundet hatte, ist in seinem Zusammenhang mit dem sich daraus ergebenden Massenanopfer des Krieges so verurteilenswert, dass es in mir die Einsicht hervorrufft, dass das Voelkerrecht dahingehend erweitert werden sollte, dass es Massstaete zur Definierung des verbrecherischen Charakters solcher Handlungen festlegt, wie sie von diesen Angeklagten begangen wurden. Wie dem auch sei, ich moechte damit schliessen, dass, was nachgewiesen worden ist, ist Sympathie fuer das Naziregime und Unterstuetzung desselben und Teilnahme an der Aufruestung in einem gigantischen Massstab, unter unbekannter Misachtung der Folgen und unter Umstaenden, die sehr stark den Verdacht der personlichen Kenntnis von Hitlers letztem Ziel der Entfesselung eines Angriffskrieges in sich schliessen;

das Beweismaterial entspricht jedoch nicht den aussergewöhnlichen Ansprüchen, die von den vererwähnten Präzedenzfaellen, darunter dem Urteil des Internationalen Militärgerichtshofes, gestellt werden.

In Inklagepunkt V werden die Angeklagten der Teilnahme an einem gemeinsamen Plan oder Verschwörung zur Begehung von Verbrechen gegen den Frieden beschuldigt. Es ist meiner Ansicht nach nicht ueber jeden vernünftigen Zweifel hinaus nachgewiesen worden, dass eine ausgesprochene Verschwörung seitens dieser Angeklagten zur Begehung von Verbrechen gegen den Frieden, wie hier zur Last gelegt, bestand. Das Beweismaterial zeigt vielmehr einzelne Handlungen der Angeklagten, die sich der I.G. bei der Vornahme von Handlungen bei ihrer Tätigkeit auf ihren einzelnen Gebieten innerhalb der I.G. bedienten, aber es ist infolge der Natur des Beweismaterials unmöglich festzustellen, ob und wann die Angeklagten sich auf einen gemeinsamen Beschluss dahingehend geeinigt haben, gemeinschaftlich vorgehend, sich einem Unternehmen anzuschliessen, das ein Verbrechen gegen den Frieden war, oder zu welcher Zeit von den Angeklagten gesagt werden kann, dass sie sich einer solchen behaupteten Verschwörung angeschlossen haben. Obwohl es weitergehende rechtliche Begriffe ueber Verschwörung gibt, unter die auch die Handlungen gewisser Angeklagter fallen koennten, sehen wir uns hier der Tatsache gegenueber, dass auf diesem neuen Gebiet des Voelkerrechts das Urteil des Internationalen Militärgerichtshofes ausserst vorsichtig mit dem Begriff der Verschwörung in Verbindung mit Verbrechen gegen den Frieden umgegangen ist. Obwohl die Ansicht des Internationalen Militärgerichtshofes in dieser Hinsicht auf den mancherlei Kritik unterzogen wurde, scheint sie doch/in diesem Prozess ueber das Bestehen einer gesonderten I.G.-Verschwörung zur Begehung von Verbrechen gegen den Frieden erwiesenen Tatbestand anwendbar zu sein. Meiner Meinung nach erbringt das Beweismaterial gleichfalls nicht den Beweis fuer die Teilnahme an dem gemeinsamen Plan zur Entfesselung von Angriffskriegen, wie er im Urteil des Internationalen Militärgerichtshofes definiert und eingegrenzt ist.

Diese beistimmende Urteilsbegründung wird deshalb die Anschuldigungen von Punkt V unberücksichtigt lassen, ausgenommen soweit solche Beschuldigungen notwendigerweise einen Teil der Beschuldigungen unter Anklagepunkt I bilden.

In Punkt I werden die Angeklagten beschuldigt, ^{vermittels} der I.G. an der Planung, Vorbereitung, Entfesselung und Föhrung von Angriffskriegen teilgenommen zu haben. Aufgrund des Beweismaterials konnten die Handlungen dieser Angeklagten nur unter den Begriff der Vorbereitung und Föhrung von Angriffskriegen fallen. Die Vorbereitung auf den Angriffskrieg, deren diese Angeklagten beschuldigt sind, stellte notwendigerweise einen Teil von Hitlers Hauptplan für den Angriffskrieg dar. Es ist nicht nachgewiesen worden, dass irgendein Angeklagter in irgendwelcher Weise bei den Entscheidungen zur Entfesselung irgendeines Angriffskrieges beteiligt war. Wenn irgendein Angeklagter strafrechtlich verantwortlich gemacht werden soll, muss es deshalb geschehen, weil seine Handlungen Teilnahme an der Vorbereitung oder an der Föhrung eines Angriffskrieges darstellten. Es soll im Vorübergehen festgestellt werden, dass der "Ausdruck Angriffskrieg", wie er in dieser zustimmenden Urteilsbegründung benutzt wird, gemäss der Definition des Kontrollratsgesetzes No. 10, Kriege unter Bruch internationaler Verträge, Abkommen und Zusicherungen umfasst und dass ausserdem die Feststellung des IMT, dass Angriffshandlungen und Angriffskriege geplant waren und stattfanden, für diesen Gerichtshof verbindlich ist. (US. Military Government Verfügung No. 7, 18. Oktober 1946, Artikel X).

Die Akten weisen zur Genüge eine wesentliche Teilnahme gewisser einzelner Angeklagter, die Vorstandsmitglieder der I.G. waren, bei der auf Föhrung der Rüstung, die eine Vorbereitung für den von Hitler entfesselten Angriffskrieg hinsiehender Tätigkeit nach darstellt. Die Koerperschaft als Angeklagte steht nicht vor diesem Gericht zur Aburteilung. Wenn ein einzelner Angeklagter die Kenntnis in sich geschlossen hatte, die der Koerperschaft als Einheit zugeschrieben wird, und sich unter denselben Umständen des der Gesellschaft als Einheit zugeschriebenen Verhaltens schuldig gemacht hätte, dann wäre es ausserst

zweifelhaft, ob mit Recht ein "freisprechendes Urteil" gefällt werden konnte. Wenn man diese zentrale Tatsache anerkennt, so steht ein gutes Stück Logik in dem Argument, dass, da ja die I.G. nicht von selber lief, irgendjemand fuer das, was die I.G. tat, verantwortlich gemacht werden sollte.

Die I.G. war kein von einem einzigen einflussreichen Fuehrer beherrschtes Unternehmen. Seine verantwortlichen Leiter waren seine Vorstandsmitglieder. Die I.G. war das Werkzeug, durch das sie einen wesentlichen Anteil an der Wiederaufruestung Deutschlands leisteten. Der Beitrag der I.G. an der deutschen Kriegeruestung kann kaum ueberschaetert werden. Nach der Machtuebernahme Hitlers und der Festigung der nationalsozialistischen Macht fand eine weitgehende Reorganisation des deutschen Wirtschaftslebens statt.

Unter Hiterbeit der Industrie strebte die Wirtschaftsstruktur rapide einem Programm der Autarkie zu, das gegen 1936 fast vollstaendig von wirtschaflichen Belangen beherrscht zu werden begann. Die Welt sah voller Furcht zu, wie Deutschland unter Missachtung des Versailler Vertrages, den Hitler oeffentlich aufkuendigte, die schlagkraeftigste Militaermacht, die jemals von einer Angrofornation in Friedenszeiten aufgestellt wurde, ins Leben rief. Die I.G. Farbenindustrie A.G., ein grosser chemischer Konzern, mit ungeheuren Hilfsquellen, mit einem Stab erfahrener Wissenschaftler und Techniker mit ueberragenden Fertigkeiten machte in der Zeit von 1933 bis 1939 eine enorme Wandlung von einer riesigen dem Frieden dienenden Einrichtung zu einem noch machtvolleren Instrument fuer die rasch sich entwickelnde Sache des Krieges durch. Wie in grosseren Einzelheiten gezeigt worden wird, wurde die I.G. in die regierungsseitige Planung und Vorbereitung fuer den Krieg eingeschaltet und wurde eine der grosssten Aktiven Hitlers bei der Durchfuehrung seines Planes des Angriffkrieges. Die Leistungen der I.G. waren fuer die Fortsetzung der beruechtigten Hitlerschen Politik der Gewalt und Aggression eine wesentliche Vorbedingung.

Die wesentlichen Teilnahme-Handlungen der IG bei der Kriegsvorbereitung Nazi-Deutschlands koennen nicht mit Erfolg abgeleugnet werden.

Jede Rüstung ist Vorbereitung für den Krieg und die I.G. war vorherrschend in Rüstungsprogramm. Aufrüstung an sich ist kein Verbrechen und die Streitfrage ist in erster Linie, ob Kenntnis darüber bestand, dass diese Vorbereitung oder Planung für einen Angriffskrieg bestimmt war. Das Beweismaterial ergibt, dass die I.G. mit Initiative und grosser Tüchtigkeit an der Planung und Vorbereitung des deutschen Aufrüstungsprogrammes auf dem ueberaus wichtigen chemischen Gebiet und auf den verwandten Gebieten unbedingt notwendiger Rohmaterialien teilnahm. Sie hat sich ausserdem systematisch in zahlreichen Faellen in einer Weise betaetigt, die Sympathie mit den Zielen und der Ideologie des Nazi-Regimes bezugte und deren Foerderung im Auge hatte.

Das Ziel der Eroberung und Unterdrueckung anderer Nationen, von dem das Hitler Regime besesselt war, sind vom IMT-Urteil festgestellt worden, ebenso die unmenschliche und verbrecherische Politik, die dieses Regime in vielen gequaelten Laendern waehrend des Krieges durchfuhrte und auch die Entschlossenheit des Regimes, die Behoerrschung und Unterdrueckung anderer Nationen nach dem Kriege zu verewigen. Die wesentliche Rolle der I.G. bei der Schaffung von Deutschlands gewaltigen Kriegspotential war ein entscheidender Faktor bei der Ermoeglichung der taktischen und politischen Aggressions-Beschluesse durch die Hitler die Welt in den Krieg stuerzte; die I.G. beteiligte sich aktiv und in betraechtlichen Umfang durch rechtswidrige Teilnahme an der Spoliation der besetzten Laender an Einheimern der Fruechte der Aggression; und die I.G. ergriff dank ihrer besonderen Stellung selbst die Initiative, indem sie schon in Juni 1940 konkrete Plaeue fuer die dauernde wirtschaftliche Ausbeutung jener Laender machte, die nach dem siegreichen Abschluss der Angriffskriege unter deutsche Herrschaft gebracht werden sollten.

Die I.G. beteiligte sich wesentlich an dem geheimen Ruestungsprogramm das dazu bestimmt war, die deutsche Militaermacht derart zu staerken, dass Deutschland unbesiegbar sein wurde. Die I.G. hat jene breite Rohstoffgrundlage geschaffen, ohne die jene, die die Politik festlegten, an die Fuehrung von Angriffskriegen nicht einmal haetten denken koennen.

und
Die I.G. plante/ entwickelte gewaltige Betriebsverlängerungen, Bereitschafts-
fabriken und Anlagen fuer die kuenstliche Erzeugung von strategischen
und absolut notwendigen Kriegsmaterialien, einschliesslich solcher
ausserordentlich wichtiger Produkte wie synthetisches Benzin, Gel, Buna-
Kautschuk, Stickstoff und Leichtmetallen, vorwiegend als Teil der Kriegs-
wirtschaft und als ausdrueckliche Vorbereitung fuer die Moeglichkeit oder
"den Fall des Krieges". All dies geschah, wie im IMT Urteil festgestellt,
* in enger Zusammenarbeit mit den obersten
Regierungs- und Wehrmachtsstellen, die unmittelbar mit der Durchfuehrung
des Programms zur Vorbereitung der Aggression betraut waren.

Die Bedeutung der I.G. fuer die deutsche Kriegsausruestung wird am
besten in einer dem Wirtschaftsminister und Generalbevollmaechtigten fuer
die Kriegswirtschaft und Schachtmantelwachfolger, Funk, zugeschriebenen
Erklaerung ausgedrueckt. Funk wurde von IMT wegen Verbrechen gegen den
Frieden verurteilt. Der Angeklagte K u e h n e berichtete dem Ange-
klagten S c h m i t z ueber eine in Gegenwart einer Anzahl militaerisch
und politischer Mierdentrueger in Oktober 1941 abgehaltenen Konferenz.
Kuehne fuehrte aus:

"Nach Beendigung seiner ausfuehrlichen Erklaerung, ueber die ich
Ihnen heffentlich nach persoenlich berichten kann, sagte Herr
Funk folgendes: Er fuehlte sich veranlasst, nochmals auf die
von Herrn Pleiger*) und mir gemachten Bemerkungen zurueckzukommen.
Selbstverstaendlich seien Kohlen, Eisen, Kanonen und Material-
beschaffung zur Kriegsfuehrung notwendig, und die Wichtigkeit
dieser Industrien duerfe nicht unterschuetzt werden. Er musste
jedoch eines feststellen: ohne die deutsche I.G. und ihre Leistungen
waere es nicht moeglich gewesen, diesen Krieg zu fuehren. Sie
koennen sich denken, dass ich hocherfreut war, und ich sprach
Herrn F u n k seinen Dank in Namen der gesamten I.G. aus".

Die Tatsache, dass die Angeklagten wussten, dass das von ihnen unter-
nommene Programm ein Teil von Hitlers Aufruestungsprogramm bildete, und
vieler seiner geheimen Aspekte einschloss, ist so einwandfrei nachgewiesen
worden, dass es hierueber keinen Streit mehr geben kann. Es wird jedoch
ganz allgemein als Verteidigung eingewandt, dass, nachdem Aufruestung fuer
Verteidigungszwecke - oder fuer andere mit dem Voelkerrecht im Einklang
stehende Ziele - sowie auch fuer Angriffszwecke vorgenommen werden kann,
die Handlungen der Angeklagten keine Verbrechen gegen den Frieden

*)Reichskohlenkommissar und Vorstandsmitglied der Hermann Goering Werke.

in Sinne des Kontrollratsgesetzes No. 10 und des Londoner Statuts darstellten. Jeder Angeklagte wendet ein, dass er infolge seiner Unkenntnis von Hitlers Angriffsabsichten und Zielen, nicht fuer sein Verhalten verantwortlich gemacht werden kann, da der erforderliche subjektive Tatbestand des Verbrechens nicht gegeben war. Die Angeklagten behaupten, dass sie der Meinung waren, die militaerische Macht Deutschlands in diesem riesigen Umfang fuer Verteidigungswecke zu erweitern, sie hatten tatsaechlich nicht geglaubt, obwohl sie es befuerchteten, dass Hitler einen Krieg beginnen wuerde, sie hatten geglaubt, Hitler bluffte nur und wurde fuer die territorialen Forderungen, die er so laut vor Beginn jeder aggressiven Aktion proklamierte, friedliche Loesungen finden. Sie behaupten von der widerspruchsvollen Natur der Nazi-propaganda irriggefuehrt worden zu sein.

Wir kommen damit zum Kernpunkt der Beschuldigungen, soweit es sich um die Angriffskriege handelt. Gewissen Angeklagte sind durch ueberwueltigendes Beweismaterial Handlungen, die eine wesentliche Teilnahme darstellen, nachgewiesen worden. Die einzige wirkliche Streitfrage ist, ob der zur Einzel- und persoenlichen Schuld gesetzlich notwendige subjektive Tatbestand vorgelegen hat. Hat die Beweisaufnahme in diesem Prozess ueber jeden vernunftigen Zweifel hinaus gezeigt, dass die Handlungen der Angeklagten bei der Vorbereitung Deutschlands auf den Krieg in Kenntnis von Hitlers aggressiven Absichten und mit dem verbrecherischen Zweck der Foerderung solcher Ziele geschahen?

In jedem Strafverfahren kann das Vorliegen oder Nichtvorliegen verbrecherischer Kenntnis oder Absicht nur durch das Abwaegen der gesamten Beweisaufnahme ermittelt werden; auf dieser Grundlage kann vielleicht trotz der Ablehnung von seiten des Angeklagten ihr Vorliegen oder ihr Nichtvorhandensein trotz des Zugestandesⁿ dieses des Angeklagten, festgestellt werden. Deshalb muss Kenntnis durch direkte Beweise nachgewiesen werden oder durch Umstaende, die den Schluss zulassen, dass der Angeklagte unterrichtet war oder Kenntnis davon hatte, dass die Behoerden, mit denen er zusammenarbeitete, Angriffskriege planten. Es ist eine grundlegende Tatsache, dass von Handlungen, von innegehabten Stellungen, und von Gelegenheiten und Moeglichkeiten sich zu informieren, die Einzelpersonen zuguenstlich waren, auf Kenntnis geschlossen werden kann. Aber das gesamte Beweismaterial muss den

Beurteiler der Tatsachen überzeugend genug erscheinen, um die Schlussfolgerung zu ziehen, dass der Nachweis über jeden vernünftigen Zweifel hinaus gebracht worden ist. Ausserdem ist die fuer Verbrechen gegen den Frieden erforderliche Kenntnis des subjektiven Tatbestandes hinreichend und man muss mit grossster Sorgfalt prüfen, bevor man entscheidet, dass diese Kenntnis in Bezug auf irgendeinen der Angeklagten über jeden vernünftigen Zweifel hinaus vorliegt.

Nach diesen einleitenden Erklärungen dürfte es von Nutzen sein, zuerst summarisch einige der bedeutsamsten Punkte des Beweismaterials zu prüfen, auf die sich die Anklagebehörde in der Frage des subjektiven Tatbestandes stützt, und später mehr in einzelnen die umfassende Tätigkeit, die die Angeklagten durch die I.G. während der in Frage stehenden Zeit ausübten, zu schildern.

Die Verbrecherische Absicht oder der subjektive Tatbestand.

Das Mass des völligen Einbaus der I.G. in ein System regierungsseitiger Planung und Vorbereitung fuer den Krieg und der Umfang der Mitarbeit gewisser Angeklagter an der Formulierung und Durchführung der diese Dinge betreffenden Politik mit dem Naziregime bieten, wie später gezeigt werden wird, ein Bild gleichgerichteter und andauernder Tätigkeit. Die Anklagebehörde unterstellt, dass man aus diesem allgemeinen Beweismaterial allein schon mit Recht schliessen kann, dass die Angeklagten, führende Beamte der I.G., vollkommen ausser unterrichtet waren - und auch der Ansicht waren - dass Deutschland, falls notwendig, schliesslich einen Angriffskrieg führen werde und dass ihre Tätigkeit auf dieses Ziel abgestellt war. Ausser einer Menge von Beweismaterial bezueglich der Natur, des Umfangs, des Charakters und des Zeitpunkts der Tätigkeit der I.G. liefert das Beweismaterial eine Anzahl besonders beachtenswerter spezifischer Angaben, auf die sich die Anklagebehörde stützt, um den subjektiven Tatbestand bei den führenden Beamten der I.G. aufzuzeigen. Dieses spezifische Beweismaterial umfasst Geständnisse, Erklärungen, Briefe, Sitzungsberichte und andere Handlungen, die zusammen mit dem allgemeinen Beweismaterial, wie unterstellt wird, dazu dienen soll, jeden vernünftigen Zweifel am Vorliegen eines schuldhaften subjektiven Tatbestandes oder einer verbrecherischen Absicht, zu zerstreuen.

Die folgenden Punkte sind beachtenswert. Sie stellen keinesfalls eine vollständige Uebersicht ueber das Beweismaterial zum Thema von Wissen dar.

(a) Nachdem Goering von Hitler zum Bevollmaechtigten fuer Rohmaterialien und Devisen ernannt worden war, hielt Goering am 26. Mai 1936 eine streng geheime Konferenz mit seinem beratenden sachverstaendigen Ausschuss ab. Der Angeklagte Schmitz war als Vertreter der I.G. dabei. Es war eine Konferenz der hoechsten Rangstufen, besucht von ausgewählten Vertretern der Industrie und allerhoechsten Beamten wie Keitel, dem Stabschef des Kriegsministers, dem Unterstaatssekretaer Koerner vom Vierjahresplan und Koppler, Hitlers Wirtschaftsberater.

Bei Eröffnung der Sitzung betonte Goering den vertraulichen und geheimen Charakter der zu erörternden Themen. Er erklärte ausdrücklich, dass die Zahlen, die er nun mitteilen werde, als Staatsgeheimnis zu betrachten seien. Er ersuchte die Teilnehmer, dafür Sorge zu tragen, dass die Notizen nicht in unrichtige Hände fielen. Es entwickelte sich eine lebhafte Diskussion ueber Mittel und Wege zur Verbesserung der Rohmateriallage. Es wurde ganz offen heraus erklärt, dass der zunehmende Materialverbrauch auf die Beduerfnisse der Wehrmacht einschliesslich der Anforderungen der Marine, zurueckzufuehren seien. Die Wichtigkeit, in A-Fall, d.h. in Kriegsfall, ausreichender Vorräte von Oel zur Verfuegung zu haben wurde betont, ebenso die Notwendigkeit, die synthetische Erzeugung von Oel weiter zu entwickeln. Im Bericht ueber die Konferenz heisst es:

"Min. Praes. Goering: unterstreicht, dass wir in A-Fall u.U. keinen Tropfen Oel aus dem Ausland bekommen. Bei der starken Motorisierung von Heer und Marine hangt von diesen Problemen die ganze Kriegsfuehrung ab. Es muessen fuer den A-Fall alle Vorbereitungen getroffen werden, dass die Versorgung des Kriegsheeres sichergestellt ist. (HI-5380, p.21).

Die Diskussion ging auf im Bau befindliche Fabriken über und auf die Verwendung amerikanischer Verfahren. Der Bericht erklärt:

dem

"Gen.Dir. Dr. Schmitz: Stimmt zu, eingeschlagener Weg nach eingehenden Besprechungen beschritten, um Erfahrungen bei Vergrößerung der Fabriken zu verwerten. "

"Min.Präs.Goering: weist hin, auf starke Einfuhrverminderung im A-Fall, wodurch Preise voraussichtlich bedeutungslos. Kautschuk sei unser schwächster Punkt".

Der ornate Ton der Sitzung tritt ferner in Erscheinung:

"Min.Präs.Goering: Die Herren werden zur Mithilfe bei den Arbeiten aufgefordert, nachdem jedem dieser Ueberblick gegeben worden ist....

Die Lage sei nicht als etwas unabänderlich Gegebenes, sondern als Ausgangspunkt fuer zu treffende Massnahmen, von denen an der Spitze der Export steht, anzusehen. Vorschlaege auf allen Gebieten werden von den Teilnehmern erhofft.

Inlands-Rohstoffe- und Ersatz- Frage wird erneut unterstrichen, Hervorgehoben wird, dass jeder Augenblick uns vor eine unerhoert schwere Situation stellen kann, der wir in der Lage sein muessen zu begegnen. Unter diesen Gesichtspunkten sei alles zu betrachten.

"Das Tempo der Aufruestung duerfte unter keinen Umständen beeinträchtigt werden, dagegen muessen auch die eigenen Werkeinteressen zurueckstehen. In den Idealismus der Wirtschaft wird speclliert. Muesen jetzt vielleicht auch grosse Risiken uebernommen werden, es sei aber damit zu rechnen, dass diese sich auch einmal entsprechend gross auswirken werden. Die Schaffung der deutschen Wehrfreiheit stehe ueber allem. Das Schickael des einzelnen Werkes sei zweischel gleichgueltig. Nach Ueberwindung der augenblicklichen Schwierigkeiten werden sich auch fuer die einzelnen Werke Mittel und Wege finden lassen, einen Zusammenbruch vorzubeugen. Anschliessend wird gefragt, ob jetzt noch einer der Teilnehmer sich zu massern wuensche". (Unterstreichungen eingefuehrt). (Doc.NI-5380, S.31).

Die wiederholte Erwachnung des Kriegsfaalles duerfte kaum verfehlt haben, den Herren die Tatsache veraugen zu fuchren, dass es mit dem zur Debatte stehenden Programm das den Krieg als absolute Moeglichkeit einkalkuliertes, toternet war. Der Bericht erklart ferner in Bezug auf Erzo:

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"Min. Praes. Goering: Stimmt das zu. Die Hauptsache sei, dass im A-Falle eine Umstellung auf die inländische Produktion und Verhurstung ermöglicht wird.....

"Min. Praes. Goering: Fuer den A-Fall sei ein mehrjaeriges Programm un-
brauchbar. Der Wehrungssturz unserer Erzlieferanten
habe die Preise um 30% gegen den Frieden verbilligt.
Notwendig ist, dass man bei unseren Erzvorkommen
nicht bei kleinen Versuchen bleibt, sondern zum
Grossbetrieb uebergangt, sonst ist die Produktions-
reserve im A-Fall nicht da. (Unterstreichungen ein-
gefasst Dok. NI-5380, S. 35).

Dass die I.G. dazu aufgerufen wurde, ihre Teilnahme an der Vorbe-
reitung Deutschlands auf einen moeglichen Krieg unter diesem Program
fortzusetzen, ist in ueberweldigender Weise nachgewiesen worden. Die
Verteidigung behauptet mit Recht, dass die I.G. damals noch einen grossen
Teil ihrer Taetigkeit auf die normale Friedensproduktion verwandte und
dass Erwagungen der Autarkie ebenfalls bei ihrer Rohmaterialien-Planung
beruecksichtigt wurden. Den Beduerfnissen der Ruestung und der Wehrwirt-
schaft wurden jedoch auch jetzt besondere Bedeutung beigemessen. Durch
Besch, den damaligen Aufsichtsrat-Vorsitzenden, stellte die I.G. den An-
geklagten Krauch Goering zur Hilfe bei der Durchfuehrung dieser von
Goering umrissenen Aufgaben zur Verfuegung. Die Verteidigung behauptet,
dass dieses Beweismaterial in bezug auf diese und andere aehnliche Kon-
ferenzen und Sitzungen mit der Vorbereitung fuer einen moeglichen Ver-
oder
teidigungskrieg/rechtsmaessigen Krieg im Einklang steht und dass tat-
saechlich niemals ein fester Entschluss, einen Angriffskrieg zu ent-
fesseln oder zu fuehren, verkundet wurde.

(b) Am 17. Dezember 1936 hielt Goering vor einer Gruppe prominenter
Industriellen ueber die Durchfuehrung des Vierjahresplanes eine Rede.
Goering hatte Hitlers Befehl, dass das deutsche Heer in vier Jahren zum
Kampf bereit sein muesse, erhalten und war dabei, ihn durchzufuehren.
Unter den Anwesenden befanden sich nicht weniger als drei der hoechsten
I.G. Beamten, Dr. Bosch und die Angeklagten Krauch und von Schnitzler.
Die Wichtigkeit vollkommener Mobilmachung fuer die Aufruestung unter
Beiseitstellung "der alten Wirtschaftsgesetze" war das Thema. Es wurde
die Notwendigkeit betont, in Nahrungsmitteln und Rohstoffen Selbstversorger
zu werden. Ein kriegerischer Ton durchzog die ganze Rede. Unter anderem
sagte Goering:

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"...Die Auseinandersetzung, der wir entgegengehen, verlangt ein riesiges Ausmass von Leistungsfähigkeit. Es ist kein Ende der Aufrüstung abzusehen. Allein entscheidend ist hier Sieg oder Untergang. Wenn wir siegen, wird die Wirtschaft genug entschädigt werden. Man kann sich hier nicht richten nach buchmässiger Gewinnrechnung, sondern nur nach den Bedürfnissen der Politik. Es darf nicht kalkuliert werden, was kostete. Ich verlange, dass Sie alles tun und beweisen, dass Ihnen ein Teil des Volksvorworgens anvertraut ist. Ob sich in jedem Fall die Neuanlagen abschreiben lassen, ist völlig gleichgültig. Wir spielen jetzt um den höchsten Einsatz. Was würde sich wohl mehr lohnen als Aufträge für die Aufrüstung?"
(Unterstreichungen eingefügt, Dok. NI-051, S. 5).

Abschliessend erklärte Goering:

"...Es gehe um unser Volk. Wir standen in einer Zeit, in der sich die letzten Auseinandersetzungen ankündigten. Wir stehen bereits in der Mobilmachung und im Krieg, es wird nur noch nicht geschossen."

Krauch bestreitet in dieser Rede irgendwelche Anzeichen eines aggressiven Kriegs geschehen zu haben. Die Anklagebehörde andererseits unterstellt, dass dieses Beweismaterial die Absicht des Regimes zum Ausdruck bringt sobald es stark genug geworden sei, Krieg zu führen, falls dies zur Durchführung der von Hitler vertretenen Politik der Eroberung und territorialen Vergrösserung notwendig sein sollte. Ein Umstand von nicht geringer Bedeutung im Zusammenhang mit diesem Beweismaterial ist, dass sofort nach Goerings Vortrag Hitler sprach, aber seine Bemerkungen bei dieser Gelegenheit liegen nicht vor. Wie weit er bei dieser Gelegenheit dieser Gruppe von Industriellen seine letzten Ziele enthüllt, haben mag, ist daher nicht nachgewiesen.

(c) Am 22. Dezember 1936, fünf Tage später, legte der Angeklagte von Schnitzler auf einer Sitzung des vergrösserten Farben-Ausschusses der I.G. einen "streng vertraulichen" Bericht ueber die von Fuehrer und Goering ueber die Aufgaben der deutschen Wirtschaft bei der Durchführung des Vierjahresplans gemachten Erklärungen vor. Der Angeklagte ter Meer war zugegen. Die Verteidigung versuchte, die Bedeutung dieses Beweises zu verkleinern, und argumentierte, dass von Schnitzler den Anwesenden keine wichtigen Enthüllungen machte. Es zeigt jedoch, wie schnell die auf die Regierungspolitik bezüglichen Informationen innerhalb der I.G. selbst an solche, die auf einer niedrigeren Rangstufe als die Vorstandsmitglieder standen, verbreitet wurden.

Wenn man Goerings Erklärungen an die prominenten deutschen Industriellen auswertet, so muss man sich die von IMT unrißenen politischen Ereignisse und das Vorgehen der Regierung vor Augen halten. Die allgemeine Dienstpflicht war schon seit länger als einem Jahr in Kraft; die Naziregierung hatte schon vor mehr als einem Jahr die Abrüstungsbestimmungen des Versailler Vertrages - offen aufgekündigt; "unter Verletzung dieses Vertrages zogen deutsche Truppen am 7. März 1936 in die demilitarisierte Zone des Rheinlandes ein". Im Lichte dieser Ereignisse betrachtet, mussten diese Erklärungen Goerings fuer mehr als nicht ernstzunehmende bombastische Aeusserungen gehalten werden. Intelligente und gut unterrichtete Industrielle, darunter die I.G. Vertreter, mussten angesichts der in Deutschland herrschenden Atmosphäre die Tragweite dieser Worte verstanden haben, aber es kann nicht positiv behauptet werden, dass das dokumentarische Beweismaterial ueber diese Konferenz schlussig beweist, dass Pläne fuer einen Krieg aggressiver Natur entworfen und erortert wurden. Rüstungstätigkeit in einem solchen politischen Milieu erregt den höchsten Verdacht der Kenntnis vom letzten Ziele des Angriffskrieges, aber bei Anlegung des allerstrengsten Massstabes an den Beweis kann den Angeklagten hinsichtlich der daraus zu ziehenden Schlüsse die Wohltat des Zweifels zugestanden werden.

(d) Die Notwendigkeit der Rüstung scheint immer wieder betont worden zu sein. Am 15. Juni 1937 war der Angeklagte bei einer Konferenz in Goering's Büro anwesend. Er hoerte, wie Goering erklärte: "Der Vierjahresplan wird sein Teil dazu beitragen, eine Grundlage zu schaffen, auf der die Vorbereitungen zum Krieg beschleunigt werden koennen."

Im Verlaufe der Unterredung wurde erwähnt, dass es unerwünscht sei, Eisen "nach den sogenannten Feindländern wie England, Frankreich, Belgien, Russland und der Tschechoslowakei" zu schicken.

Die Anführung dieser fünf Länder ist bezeichnend, Frankreich und Russland hatten Beistandspakte mit der Tschechoslowakei. Die klassische deutsche Einfallstrasse nach Frankreich geht durch Belgien und Englands Hilfe fuer Frankreich wurde vorausgesetzt.

Während des Jahres 1938 ereigneten sich wichtige Dinge, die auf den bei den Angeklagten vorliegenden inneren Sachverhalt Einfluss hatten.

(e) Der IMG charakterisierte die Aktion gegen Oesterreich, indem er feststellte, dass Oesterreich, "in Verfolge /eines allgemeinen Angriffsplanes besetzt wurde", und "die Methoden, deren man sich zur Erreichung jenes Zieles bediente, waren die eines Angreifers. Entscheidend war, dass Deutschlands bewaffnete Macht zum Einsatz fuer den Fall eines Widerstandes bereitstand" (IMG 216). Der Einmarsch in Oesterreich am 13. März 1938 bedeutete, dass die I.G. nun offen davon in Kenntnis gesetzt wurde, dass die Drohungen mit dem Angriff in die Tat umgesetzt wurden. Das Beweismaterial geht noch darueber hinaus, indem es aufzeigt, dass gewisse Angeklagte sich keiner Illusion darueber hingaben, dass ein "kurzer Stoss" in die Tschechoslowakei eine absolute Moeglichkeit auf der Tagesordnung der Nazi-Aggression war. Am Tag vor dem Einfall in Oesterreich, am 11. März 1938, trat der kaufmaennische Ausschuss der I.G. zusammen, wobei die Angeklagten Schnitzler, Haefliger, Ilgner und Mann zugegen waren. Wie es in jenen Tagen in den Ausschuessen der I.G. ueblich war, wurde die Mobilisierungsfrage (M-Frage) besprochen. Der Angeklagte Haefliger berichtet ueber diese Sitzung wie folgt:

"Der erste Punkt der Tagesordnung auf der Sitzung des kaufm. Ausschusses vom 11. März des Jahres war die 'M-Frage'. Halten wir uns fuer einen Augenblick die Atmosphaere vor Augen, in der diese Konferenz stattfand. Schon um 9:32 erreichten uns die ersten alarmierenden Nachrichten. Dr. Fischer kam ganz aufgeregt von einer telefonischen Unterredung zurueck und berichtete, dass die Gasolin Instruktionen erhalten haette, alle Benzinstellen in Bayern und anderen Teilen Sueddeutschlands an der tschechischen Grenze zu versorgen. Eine Viertelstunde spaeter kam ein Telefonanruf von Burghausen, wonach schon eine ziemliche Anzahl von Arbeitern einberufen

worden und die Mobilisierung in Bayern in vollem Gang sei. Infolgedes Manuels an amtlichen Nachrichten, die erst am Abend bekannt gemacht wurden, waren wir nicht sicher, ob gleichzeitig mit dem Einmarsch in Oesterreich, der fuer uns schon eine vollendete Tatsache war, nicht auch gleichzeitig der "kurze Stoss" in die Tschechoslowakei stattfinden wurde, mit all den internationalen Verwicklungen, die dergleichen hervorrufen wurde. Das erste, was ich tat, war Verbindung mit Paris zu verlangen, um meine Reise nach Cannes (Molybdan-Verhandlungen) abzusagen. Gleichzeitig rief ich Herrn Moyer-Kuester, der schon in Paris war und mit dem ich telefonierte, die Entwicklung sorgfaeltig zu beobachten und lieber zu frueh als zu spaet abzufahren. Ausserdem bat ich ihn, Herrn Mayer-Wogelin, der auch schon in Paris angekommen war, zu veranlassen, am selben Abend zurueckzureisen.

"Unter diesen Umstaenden nahm die Konferenz ueber M-Sachen natuerlich einen hoechstbedeutsamen Charakter an. Wir erkannten ploetslich, dass wie ein Blitzschlag aus heiterem Himmel eine Sache, die wir einst mehr oder weniger theoretisch behandelt hatten, totornet werden konnte und es wurde uns ausserdem klar, dass die Vorbereitungen, die wir bis jetzt fuer die Grueneburg getroffen hatten, schliesslich doch als recht mangelhaft betrachtet werden mussten. Da ich bis jetzt ueber die M-Anglegenheit keinen Eid abgelegt hatte, hoerte ich erst spaeter, nachdem ich am 12. Maerz im Reichswirtschaftsministerium einen solchen Eid geleistet hatte, genauere Einzelheiten ueber die Schritte, die wir ergriffen hatten, die ich natuerlich hier im einzelnen nicht diskutieren kann." (Unterstreichungen hinzugefuegt.)

Der Haefliger-Bericht erwaehnte, dass ein gewisses Bauprojekt in Frankfurt revidiert werden musste in Anerkennung der Tatsache:

"... dass die Lage Frankfurts natuerlich von Anfang an in der grossten Gefahr ist, die hier nicht betont zu werden braucht. - Alle Anwesenden waren sich des Ernstes der Lage bewusst und auch der Tatsache, dass, wenn das Ereignis eintroete, Frankfurt in organisatorischer Hinsicht nicht gehalten werden koennte."

Andero Handlungen der I.G. waehrend dieser Periode zeigen, dass die I.G. nicht nur der Meinung war, dass der "kurze Stoss" in die Tschechoslowakei moeglicherweise vor sich gehen koennte, sondern dass die I.G. ihrerseits bedeutsame Vorbereitungen traf, die auf dieser Moeglichkeit fussten. Das Beweismaterial ergaebt, dass die I.G. beabsichtigte, an der Inbetriebnahme von tschechoslowakischen Fabriken teilzunehmen, im Falle die Tschechoslowakei nach oesterreichischem Muster eingegliedert wurde.

(f) Im April 1938, fuenf Monate vor dem Muenchener Pakt und sofort nach dem Einfall in Oesterreich, benutzte der Angeklagte Haefliger waehrend eines Besuches bei dem vorerwaehnten Keppler, einem der naechsten Wirtschaftsberater Hitlers, die Gelegenheit, "ihm ueber die Einstellung der deutschen Behoerden zur Einflussnahme auf sudeten-tschechoslowakische Unternehmen auszuhoerchen." Demals wurde die von den Nazis solicitete

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Agitation wegen des Sudetenlande verstaerkt. Haefliger vermerkt bezeichnenderweise:

"Wir hoerden auch in Wien aus verschiedenen Quellen, dass tschechische Unternehmen schon damit beginnen, ihren Besitz im Sudetengebiet der Tschechoslowakei abzustossen."

Die zukuenftigen Opfer sahen den naechsten Zug ziemlich klar. Die I.G. war bereit, dabei mitzumachen, die tschechoslowakischen Unternehmen unter Nasidruck zu setzen.

(g) Waehrend des Sommers 1938, als die Welt mehr und mehr befuerchtete, dass Deutschland einen Krieg beginnen wuerde, war die I.G. ausserst ruehrig bei der Vorbereitung ihres eigenen Programms fuer das Sudetenland - ein Programm, das auf der Annahme begruendet war, dass dieses Gebiet bald annektiert werden wuerde. Am 16. September 1938 wurde bei einer Vorstandssitzung ueber den Erwerb von Fabriken im Sudetenland diskutiert. Ein vom 21. September 1938 datierter und vom Buero des Kaufmaennischen Ausschusses der I.G. an alle Vorstandsmitglieder gerichteter Brief uebermittelte eine vorlaeufige Erklaerung ueber die "Lage der wichtigsten chemischen Fabriken in der Tschechoslowakei". Dieser Bericht war von der wirtschaftspolitischen Abteilung der I.G. zusammengestellt worden und wurde von Krueger bei der I.G. an die Vorstandsmitglieder ausgegeben, weil er sich auf die in der Vorstandssitzung am 16. September 1938 stattgefundenen Diskussionen bezog.

(h) Dass diese Plaene schon seit geraeumer Zeit festgelegt worden waren, wird ausserdem durch die Tatsache bewiesen, dass schon im Mai 1938 die I.G. Plaene zur Ausbildung von Personal fuer zukuenftige Verwendung in der Tschechoslowakei ausarbeitete. Am 17. Mai 1938 wurden auf einer Konferenz von I.G.-Beamten fuer die Nazifizierung des Sudetenlandes im Falle eines evtl. "Anschlusses" oder im Falle es "unabhaengig" werde, und fuer die Vorbereitung "einer allmaehlichen finanziellen Staerkung der sudetendeutschen Zeitungen durch Annoncieren" Plaene entworfen. Das Protokoll und ein zusammenfassender Bericht ueber diese Konferenz wurden dem Kaufmaennischen Ausschuss auf einer Sitzung vorgelegt, an der die Angeklagten Gattineau, Haefliger, Ilgner, Kugler, Schmitz und von Schmitzler teilnahmen.

(i) Am 23. September 1938, immer noch vor dem Münchener Abkommen, schrieb der Angeklagte einen Brief an die Angeklagten ter Meer und von Schnitzler, in dem er die "erfreuliche Nachricht" bestätigte, dass es den Adressaten (ter Meer und von Schnitzler) gelungen sei, die Behörden dazu zu bringen, das Interesse der I.G. an der in Sudetenland der Tschechoslowakei gelegenen Fabrik zu würdigen und bemerkte, dass "sie den Behörden schon Kommissare vorgeschlagen haben". Die Kommissare waren die Angeklagten Wurster und Kugler.

(j) Am 29. September 1938 richtete der Angeklagte von Schnitzler ein Memorandum an die Angeklagten ter Meer, Kuchne und Wurster. Er erwähnte erfolgreiche Verhandlungen mit Keppler über das Sudetenland. Von Schnitzler erklärt, dass "von allen Seiten anerkannt worden ist, dass, sobald das sudetendeutsche Gebiet unter deutscher Hoheit steht, alle dort gelegenen Fabriken des Aussiger Vereins durch Kommissare verwaltet werden müssen" fuer Rechnung, den es angeht. Der Aussiger Verein war ein bedeutendes tschechoslowakisches Unternehmen. Der Hinweis bezog sich auf Konferenzen, welche in der vorhergehenden Woche stattgefunden hatten. Von Schnitzler erwähnt auch den auf die Ernennung Wursters und Kuglers zu Kommissaren bezüglichen Vorschlag. Dieses Beweisstück macht es klar, dass gewissen Angeklagten eine Teilnahme an den Früchten der Einverleibung der Tschechoslowakei versprochen.

(k) Am 11. Oktober 1938, nachdem das Sudetenland übernommen worden war, erklärte der Angeklagte von Meer in einem Brief an das Reichswirtschaftsministerium betreffs der Lage der Buna-Anlage 3, dass militärische Erwägungen keinen überragenden Einfluss bezüglich des Ortes haben sollten, "da die unmittelbare Kriegsgefahr nun beseitigt sei". Er erwähnt dann eine mögliche Lage der Buna-Anlage 3 in Oberschlesien, welche "bisher nicht in Erwägung gezogen werden konnte, denn dieses Gebiet wurde als Truppenansammlungsgebiet gegen die Tschechoslowakei betrachtet." (Unterstreichung hinzugefügt). Dass Ferben von der Möglichkeit der Anwendung von Zwang Kenntnis hatte, steht somit fest.

Die Verteidigung hob mit erheblichem Nachdruck die Wichtigkeit der Teilnahme an einer der sogenannten vom IMT erwähnten Planungsvorversammlungen hervor, in welchen Hitler einer Gruppe seiner engsten Mitarbeiter seine Absichten ankündigte. Beodor, der Hitlers Konferenz am 5. November 1937 bewohnte, behauptete vor dem IMT dass er nicht glaubte, dass es Hitler ernst war mit Krieg. Das IMT verwarf diese Behauptung auf der Grundlage seiner tatsächlichen Schlussfolgerung:

"Das Gericht ist überzeugt, dass Oberstleutnant Hossbachs Schilderung der Versammlung im wesentlichen korrekt ist, und dass die Anwesenden wussten, dass Österreich und die Tschechoslowakei bei der ersten Gelegenheit von Deutschland annektiert werden würden."

Aus der Tatsache, dass Ferben solche ausführlichen Pläne machte, welche sogar so weit gingen, dass sie ein eigenes Personal zur Führung der tschechischen chemischen Fabriken wählten, könnte man folgern, dass Vertreter der IG-Farben, welche an diesen Plänen Anteil hatten, um Hitlers Entschluss, einen Angriffskrieg gegen die Tschechoslowakei zu führen, falls diese der Gewaltandrohung der Nazis nicht nachgeben sollte, wussten. Es kann jedoch nicht gesagt werden, dass eine solche Folgerung durch Beweise unzweifelhaft festgestellt ist. Die Verteidigung hielt energisch daran fest, dass die Farben Vorbereitungen für die Möglichkeit eines erfolgreichen diplomatischen Coups traf, welcher von Hitler unter Bedingungen, die ^{von} Angriffskrieg nicht erreichten, zu erwirken war, und dass, wie bei Österreich, die tschechische Krise, welche im Pakt von München endete, nicht tatsächlich zu Krieg führte. Wenn man den Angeklagten eine freie Auslegung des berechtigten Zweifels zugute kommen lässt, muss man schließen, dass es nicht erwiesen ist, dass sie wirklich von Hitlers Beschluss, einen Angriffskrieg gegen die Tschechoslowakei zu führen, wussten, wie es denjenigen, die auf der vom IMT erwähnten Hossbach-Konferenz anwesend waren, so ausdrücklich bekannt gemacht wurde.

(1) Im Juni 1938 ging der Angeklagte Krauch, welcher von Farben zu einer Schlüsselstellung in Goering's Dienststelle zeitweilig abbeordnet worden war, zu Goerner vom 4-Jahresplan und zu Goering und teilte beiden mit, dass die Produktionsziffern und Planungen von Oberst Loeb, der damals Krauchs Vorgesetzter in Goering Vierjahresplan-Organisation war, auf fal-

schon Angaben beruhten. Dass er eine solche Mitteilung machte, mag lediglich zeigen, dass Krauch besorgt war. Jedoch er gab ausserdem Warnung, dass es gefährlich sei auf dieser Basis einen Krieg zu planen. Wie beeindruckt Goering war, ist aus den darauffolgenden Entwicklungen ersichtlich. Ein als Beweis aufgenommenes Verhör Krauchs enthüllt folgendes:

F.: Wurde Ihnen nicht zum ersten Mal im Jahr 1935 klar, als die Wehrmacht grosses Interesse an Ihrem Bure zeigte, und später, nachdem Sie 1936 Ihre Stellung beim Vierjahresplan antreten, um Deutschlands chemische Kapazität zu erweitern, dass die Nazi-Regierung auf dem Weg zum Krieg war?

A.: Ich hatte das Gefühl, dass sie Krieg führen wollten, wie mir Dr. Bosch im Juni 1938 sagte, und damals bin ich mit den falschen Zahlen Loeb zu Goering gegangen, und sagte ihm, wir können nicht Krieg führen, denn die Zahlen sind alle falsch. Wir werden den Krieg auf dieser Grundlage verlieren.

F.: Als die falschen Zahlen, welche Sie Goering vorlegten, soweit berichtigt wurden, dass sie die von Keitel vorher geglaubte Höhe erreichten, mussten Sie doch geglaubt haben, dass sie Krieg führen würden?

A.: Heute muss ich sagen: Ja."

Krauch hat jedoch in seiner Aussage vor dem Militärgericht energisch irgendwelche wirkliche Kenntnisse oder Glauben der Pläne fuer die Föhrung eines Angriffskrieges verneint.

(a) Krauchs Besuch bei Goering föhrte dazu, dass Goering seine Ansichten annahm. Danach unterbreitete Krauch Goering seine Vorschläge betreffs der Ermächtigung, dass er (Krauch) seine Pläne zur Erweiterung der Produktionsanlagen ausführen sollte. Auf der Grundlage der Empfehlungen Krauchs wurde er schliesslich zum Generalbeauftragten fuer besondere Probleme der chemischen Erzeugung ernannt. Feldmarschall Keitel protestierte gegen Krauchs Übernahme der Produktionssteigerung von Schiesspulver und Sprengstoff, wobei einer seiner Gründe war, dass der Inhaber der Stellung genaue Kenntnisse von Deutschlands militärischer Stärke haben würde, da es einfach war, die geplante Stärke aus den Kenntnissen welche eine solche Person erhalten würde, zu kalkulieren. Diese Schwierigkeit wurde in Besprechungen mit Wehrmachtvertretern beseitigt, nachdem Krauch die Mitarbeit der Industrie versichert hatte. Krauch wurde mit der Erweiterung der Einrichtungen fuer das gesamte Gebiet von Schiesspulver, Sprengstoffen, Zwischen- und Vorprodukten betraut. Er entwarf den "Kriegswirtschaftsproduktionsplan" vom 12. Juli 1938 und den späteren Rush Plan vom 13. August 1938. Danach nahm er an ihrer Ausführung während der Vorbereitungszeit und durch den ganzen Krieg hindurch teil. Ich kann nicht mit den Folgerungen der Mehrheitsansicht übereinstimmen, wonach die von Krauch eingenommene Stellung verhältnismässig unwichtig war und auf einer niederen Stufe lag. Er war ein führender Wissenschaftler der Farben; ein Mann der die Richtigkeit von Produktionsleistungen, auf welche sich Keitel

verliess, bezweifeln konnte, und dessen Ansicht von Goering bekräftigt wurde, hatte keine unbedeutende Stellung inne. Die gesamten Akten der Tätigkeiten Krauchs bringen mich zu dem Schluss, dass die Handlung der IG Farben, indem sie ihn Goering zur Verfügung stellten, einer der grössten Beiträge der Farben zum Nazi-Rüstungsprogramm war, zum gegenseitigen Vorteil des Reiches und der Farben. Man kann an der Vorbereitung des Angriffskrieges sowohl durch Mitarbeit mit einem Goering wie mit einem Hitler teilnehmen. Krauchs Stellung und enge Verbindung mit Goering gibt Anlass zu dem starken Verdacht, dass er viel eingehendere Kenntnis heber die in die Wege geleiteten Pläne erhalten haben mag, man kann jedoch nicht sagen, dass Krauchs Kenntnis eines ausdrücklichen Entschlusses des Regimes zur Föhrung eines Angriffskrieges durch ueberzeugende Beweise ueber einen berechtigten Zweifel hinaus gezeigt worden ist, obwohl die gegenteiligen Folgerungen aus den Beweismitteln ungewöhnlich stark sind.

(n) Kurz nach dem Erwerb des Sudetenlandes, als das Regime öffentliche Friedensaussagen fuer politisch angebracht hielt, wohnte Krauch am 14. Oktober 1938 einer Besprechung im Reichsluftfahrtministerium bei, auf welcher Goering zu seinen Mitarbeitern im Rüstungsprogramm sprach. Der Bericht sagt:

"Generalfeldmarschall Goering eröffnete die Sitzung indem er erklärte dass er beabsichtige, Anweisungen fuer die Arbeit der nächsten Monate zu geben. Jedermann weiss durch die Presse wie die Weltlage aussieht, und der Fuehrer hat ihm deshalb den Befehl erteilt, ein Riesenprogramm auszufuehren, welches traechere Errungenschaften in den Schatten stellt. Es stehen Schwierigkeiten im Weg, welche er mit massenhafter Energie und Umsichtseligkeit ueberwinden wird.

"Der Devisenbetrag ist durch die Vorbereitung des tschechischen Unternehmens vollkommen eingeschrumpft, und es ist erforderlich ihn sofort stark zu erhoehen. Ausserdem sind die Auslandskredite stark ueberbeansprucht worden, und deshalb steht grösste Exporttaetigkeit - grösser als bisher - im Vordergrund. Fuer die nächsten Wochen steht grösserer Export an erster Stelle um die Devisenlage zu verbessern. Das Reichswirtschaftsministerium soll einen Plan vorbereiten, wonach die Ausfuhrtaetigkeit durch die Beiseitiaschiebung der laufenden, die Ausfuhr verhinodernden Schwierigkeiten, erhoeht wird.

"Diese Gewinne, welche durch Ausfuhr erzielt werden, sollen fuer verstärkte Rüstung verwendet werden. Die Rüstung soll nicht durch die Ausfuhrtaetigkeit vermindert werden. Er hat vom Fuehrer den Befehl erhalten die Rüstung in einem ungewöhnlichen Grade zu verstärken, wobei die Luftwaffe den Vorrang erhaelt. In kuerzester Zeit soll die Luftwaffe auf das Fuenffache erhoegt werden, ausserdem soll die Marine rascher aufruesten, und das Heer soll grosse Mengen von Angriffswaffen in grösserer Eile beschaffen, besonders Schwerartillerie und schwere Panzer. Hand in Hand hiermit muss die industrielle Rüstung gehen; insbesondere werden Treibstoff, Gummi, Pulver und Sprengstoffe in den Vordergrund gerueckt. Schnellerer Erbauung von Hauptstrassen, Kanalen und besonders Eisenbahnen soll hiermit verbunden sein.

"Hinzu kommt der Vierjahresplan, welcher nach 2 Gesichtspunkten hin umgestaltet werden soll.

"Im Rahmen des Vierjahresplans sind an erster Stelle alle die Konstruktionen zu foerdern, die zu Ausstattungswecken dienen und an zweiter Stelle alle Einrichtungen zu schaffen, die tatsaechlich Devisenersparnisse mit sich bringen."

"Das Sudetenland muss mit allen Mitteln ausgebaut werden. Generalfeldmarschall Goering rechnet mit einer vollstaendigen industriellen Angleichung der Slowakei. Die Tschechei und Slowakei werden deutsche Besitzungen werden."
(Unterstreichung hinzugefuegt)

Ein solch eindeutiger Beweis fuer die ungeheure Steigerung des Ruestungsprogramms war geeignet um Hitler, der seine Friedensabsichten oeffentlich nach der Muenchner Konferenz aeußerte, der Luege zu strafen; aber auch hier kann nicht behauptet werden, dass aus dem Ruestungsausmass, von dem hier die Rede ist, tatsaechliche Beweise von Angriffsplaenen hergeleitet werden kann.

(c) mehrere schwerwiegende Schluesse zu Ungunsten des Angeklagten auch aus dem umfangreichen Beweismaterial gezogen werden koennen, welches die Kenntnis von der starken Steigerung des Ruestungsprogramms in 1939 zeigt, ist auch hier die Norm des Beweises ueber jeden vernuenftigen Zweifel hinaus nicht gegeben. Aus diesem Beweismaterial koennen zwei Beispiele zitiert werden. Es enthaelt einen Dienstbericht ueber eine Inspektionsreise, die im Februar 1939 von dem Stabschef gemacht wurde; dieser Bericht wurde unter Krauchs Bueroakten aufgefunden und konnte von diesem seinerseits nicht uebersehen werden, denn er behandelt das Ziel seines eigenen Dringlichkeitsplans in Verhaeltnis zu den Erfordernissen der Wehrmacht. Diese Erfordernisse sind in groesten Einzelheiten geschaetzt; behandelt wird der Schiesspulverbedarf der Wehrmacht, Schiesspulverbedarf fuer Maschinengewehre und andere Geschuetze an Westwall, Erfordernisse des Panzerkorps oder der Panzerdivisionen, Erfordernisse der Jagdflugzeuge und Kampfflugzeuge der Luftwaffe, Bedarf der Marine. Der ganze Ton dieses Berichtes laesst sich nur mit der Fortdauer der Vorbereitungen fuer den Fall, dass Hitlers Politik zum Krieg fuehren sollte, vereinbaren. Der Bericht deutet darauf hin, dass die Erfordernisse fuer 20 - 30 Korps von Kampfruppen oder fuer eine Armee von 1.200.000 - 1.800.000 Mann berechnet waren.

Am 31. Januar 1939 wurde Goering ein Bericht des Oberkommandos der Wehrmacht vorgelegt, von dem der Angeklagte Krauch und Schneider Abschriften zugeleitet wurden; dieser Bericht behandelt die Notwendigkeit, seinen sofortigen Entschluss der hoechsten Behoerden herbeizufuehren, um die Steigerung der Petroleum Produktion im Ruestungsprogramm als hoechst dringlich zu beruecksichtigen, was Material und Finanzierung anbelangt."

Der erwähnte Plan zur Steigerung der Petroleumproduktion war nach von Krauch entworfen worden und sah eine Steigerung der gesamten Petroleumproduktion von 2.800.000 Jahrestonnen auf 11.300.000 Jahrestonnen vor.

(p) Unbeschränkte Zusammenarbeit in den kleinsten Einzelheiten zwischen Farben und dem Reich ist bewiesen worden und viele Faell stuetzen die Folgerungen zu Ungunsten der Verteidigung. Zum Beispiel; ein Brief vom Mai 1939 von der Farben-Vermittlungsstelle an den Agrarwirtschaftsstab gibt aufschluss ueber die Lage und Produktionsfaehigkeit von englischen Ausweichbetrieben fuer die Herstellung von Stickstoff. Der beigegefuegte Bericht gibt die Produktionszahlen von englischen Fabriken wieder und im Brief wird bedeutungsvoll festgestellt: "wenn die obige Beurteilung der Produktionsfaehigkeit stimmt, waeren sie wahrscheinlich in der Lage, den Gesamtbedarf der britischen Fabriken an primaeren Stickstoff zu decken, der fuer die Herstellung von hochkonzentrierter Salpetersaure benoetigt wird, 22881.2288 die Billingham Fabrik lahngelegt werden sollte." (Unterstreichung hinzugefuegt).

Das war im Mai 1939, nach der Invasion von Böhmen und Mähren und waehrend die beschleunigten Vorbereitungen zur Invasion von Polen im Gange waren. Eine Abschrift dieses Briefes wurde der Angeklagten Krauch zugeleitet.

(q) Die eidesstattlichen Erklärungen und Vernehmungen des Angeklagten von Schnitzler vor der Verhandlung enthalten einige sehr belastende Beweise, was die Gedankengänge der Angeklagten anbelangt.

Nach einer Entscheidung des Tribunals, mit der der Unterzeichnete nicht einverstanden war, beschränkt sich der Inhalt der Aussagen, die von Schnitzler vor der Verhandlung machte, nur auf von Schnitzler selbst, da er nicht in den Zeugenstand trat. Von Schnitzler erklärte:

"F. Wann wurde der Befehl, der die Pläne verwirklichte, herausgegeben?

A. Die gesamten deutschen Industrien wurden im Sommer 1939 mobilisiert und im Sommer 1939 erging der Befehl von der Wirtschaftsgruppe Chemie, dass die Pläne fuer den Kriegsfall jetzt zur Durchfuehrung gelangen sollten. In Juni oder Juli 1939 wussten die I.G. und auch alle Schwerindustriebetriebe, dass Hitler sich entschlossen hatte, Polen zu besetzen, falls Polen seinen Forderungen nicht nachkommen sollte. Dessen waren wir absolut gewiss und im Juni oder Juli 1939 war die deutsche Industrie voellig fuer die Invasion von Polen mobilisiert."

Der Angeklagte von Schnitzler hat auch in einer fruheren eidesstattlichen Erklärung ausgesagt, dass die zustandigen Reichsbehoerden ungefahr in Juli 1939 die Anweisung ergaben liessen fuer die Schliessung der Ludwigshafen/Oppau Fabrik und als Begründung ihre Nahe zur franzoesischen Grenze angeben. Diese Anweisung, die von Dr. Ungewitter von der Wirtschaftsgruppe Chemische Industrie herausgegeben wurde, war an sich ein genuender Hinweis fuer das nahe Bevorstehen des Krieges in Juli 1939. Eine der Verteidigungsbehauptungen ist, dass man einen Angriff aus dem Osten befuerchtete, jedoch haben wir hier einen Beweis, dass im Juli 1939 (nachdem Hitler eine Entscheidung ueber bestimmte Pläne gegen Polen getroffen hatte) anweisungen ergingen, einen wichtigen Teil der Produktion

aus der westlichen Gefahrenzone zu evakuieren. Die Anklagebehörde argumentiert nicht ohne Grund, dass Pläne fuer einen "Verteidigungskrieg", wie sie von den Angeklagten hervorgehoben werden, im Hinblick auf eine Situation gemacht wurden, welche entstehen wuerde, wenn die westlichen Nationen eingreife sollten, um Hitlers Aggression zu verhindern. Von Schnitzler sagte ausserdem in einer seiner fruheren eidesstattlichen Erklarungen, dass Ungewitter ihn tatsaechlich von Hitlers Entschluss Polen anzugreifen in Kenntnis gesetzt haette. Aber von Schnitzler (der auf Grund seiner fruheren Aussage von Seiten seiner Kollegen einem unbarmherzigen Druck ausgesetzt war, der beinahe einer Verfehlung glich) stellte in einer spaeteren eidesstattlichen Erklarung folgendes fest:

"....Ich bin jetzt in Zweifel, ob Dr. Ungewitter tatsaechlich gesagt hat, dass Hitler entschlossen war, Polen anzugreifen. Er konnte es zu jenem Zeitpunkt nicht gewusst haben. Aber nachdem er der Verbindungsmann zwischen der Regierung und der chemischen Industrie war, wusste ich, dass er im Zusammenhang mit der Schliessung der Ludwigshafen/Oppau Fabrik fuer den Vierjahresplan sprach und ich war von seiner Redeweise sehr beeindruckt. Als er hinzufuegte, dass die internationale Lage sehr ernst sei und dass mit der Moeglichkeit eines Krieges mit Polen gerechnet werden muesse, an welchem auch Frankreich und England beteiligt sein wuerden, habe ich seine Worte wahrscheinlich so ausgelegt, als haette er gesagt, Hitler waere entschlossen Polen anzugreifen."

Man darf annehmen, dass Personen in Positionen wie sie die Angeklagten inne hatten, viel in Erfahrung brachten, ohne dass man sie direkt davon in Kenntnis setzte. Es ist gewiss, dass der Angeklagte von Schnitzler, wenn man seinen Aussagen Glauben schenken will, im Juli 1939 annahm, dass Hitler moeglicherweise Polen angreifen wuerde. Die Erklarung, die er zu geben versuchte, stuetzt sich auf seine Erwartung, dass allein die Drohung der Gewaltanwendung gegen Polen wirksam sein wuerde, wie es mit Oesterreich und der Tschechoslowakei der Fall war. Nach von Schnitzlers eigenen Worten:

"Ich dachte vielmehr, dass Hitlers Aussenpolitik des Bluffs und der starken Hand Polen wahrscheinlich dazu bewegen wuerde, seinen Forderungen stattzugeben. Aber ich machte mir grosse Sorgen, besonders nach der Invasion von Prag (Maez 1939), denn ich hatte das Gefuehl, dass England, Frankreich und Amerika ganz bestimmt energisch zu Hitlers Worten und Taten Stellung nehmen wuerden und dass Hitlers Politik Europa schliesslich Krieg und Zerstoeerung bringen wuerde."

(Datum zum genaues Verstaendnis hinzugefuegt)

Was die Art und Weise anbelangt, in welcher die Mobilisierung im Sommer 1939 durchgefuehrt wurde, erklarte von Schnitzler folgendes:

"Seit der friedlichen Invasion Oesterreichs war ganz Deutschland praktisch am Rande der Mobilisierung."

"Diese Lage wurde sogar verschaefft als Hitler in Prag einzog und als mit Vorbereitungen fuer einen Feldzug gegen Polen begonnen wurde. Seit Juli 1939 wurden viele unserer Angestellten, insbesondere die Reserveoffiziere der sogenannten neuen Armee, zu ihren Regimentern eingezogen und hinter der polnischen Grenze bereit gestellt."

"Die Industrie wurde gleichzeitig mobil gemacht. Mobilmachungspläne, was im Kriegsfall fuer die Herstellung erlaubt oder in Auftrag gegeben werden sollte, waren seit geraumer Zeit festgelegt."

"Diese Pläne, die seit Anfang 1934 von den einzelnen Firmen in enger Zusammenarbeit mit der Wirtschaftsguppe Chemie und den zuständigen Ministerien aufgestellt waren, wurden dadurch wirksam, dass sie die Wigrü an die einzelnen Firmen mit ihrem Genehmigungstempel versehen zurueckgab."

In einer spaeteren Erklarung ergaenzte er dies lediglich wie folgt:

"Die Mobilmachung war vorbereitet, Personal und Kriegsmaterial waren beide in einem gewissen Sinne mobil gemacht, aber der Befehl, der die Mobilmachungspläne endgueltig in Kraft setzte, wurde nicht vor Ausbruch des Krieges erteilt, wie mir seit 1945 mitgeteilt wurde....." (Unterstreichung hinzugefuegt).

Die oidesstattliche Versicherung des Zeugen Ehrmann besagt:

"Im Laufe des Sommers 1939 war gewoehnlich das Hauptthema in der Unterhaltung der verantwortlichen Personen der Wirtschaftsguppe Chemie die Spannung in der internationalen Lage....."

"Ich entsinne mich, dass waehrend dieser Konferenzen mehrere Zusammenkuenfte zwischen Dr. Ungewitter und Herr von Schnitzler statt fanden. In Verbindung mit diesen Unterhaltungen ueber den bevorstehenden Krieg machte Dr. Ungewitter auch die Bemerkung, dass der Krieg mit Polen wahrscheinlich nicht eher ausbrochen wuerde bevor nicht die Ernte eingebracht sei, d.h. nicht vor September 1939".

An einer anderen Stelle erklarte von Schnitzler:

"Auch ohne Nachricht aus erster Hand zu haben, dass die Regierung beabsichtigt einen Krieg zu fuehren, war es unmoeglich fuer Beamte der I.G. oder irgendwelcher anderer Industrieller daran zu glauben, dass die enorme Kriegsproduktion und Kriegsvorbereitung, die mit Hitler's Machtuebernahme seinen Anfang nahm, sich im Jahre 1936 beschleunigte und im Jahre 1938 unglaubliche Ausmass annahm, einen anderen Sinn haben sollte als den, dass Hitler und die Nazi Regierung beabsichtigten, unter allen Umstaenden einen Krieg zu fuehren. Angesichts der ueberaus grossen Konzentrierung auf militaerische Erzeugnisse und auf gesteigerte militaerische Vorbereitungen konnte kein Mensch der I.G. oder irgend ein anderer Industriefuehrer glauben, dass dies fuer Verteidigungszwecke geschah. Wie von der I.G., sowie alle deutschen Industriellen, waren uns dieser Tatsache bewusst und kurz nach dem Anschluss im Jahre 1938 traf die I.G. - nach der geschaeftlichen Seite hin - Massnahmen, seine auslaendischen Aktivitaeten in Frankreich und dem britischen Weltreich sicherzustellen."

Die ueberwiegende Ansicht ist, dass Schnitzler's oidesstattliche Versicherung kein grosser Wert beizumessen ist, weil er geistig aus der Fassung gebracht war und nach zahlreichen Verhoeren - nach Ansicht der Mehrheit - das sagte was die Verhoerungsbeamten scheinbar hoeren wollten. Die Verhandlung des Falles erfolgte unter der Theorie, dass Schnitzler's oidesstattliche Erklarung nur als Zeugnis gegen ihn zu verwenden waere, falls er ablehnen sollte in eigener Sache auszusagen. Der Beschluss des Gerichtes kam daher einer offenen Einladung an ihn gleich, sein Vorrecht wahrzunehmen und nicht im Interesse seiner Mitangeklagten als Zeuge aufzutreten. Das Ergebnis war, dass das Gericht der Gelogenhait beraubt wurde, die Glaubwuerdigkeit von Schnitzler's durch Vernehmung in einer offenen

Verhandlung festzustellen und um besser beurteilen zu können, welcher Wert diesen Erklärungen beizumessen ist, die vor der Verhandlung abgegeben wurden. Ich stimme nicht mit dieser irrigen Verhandlungsentscheidung des Gerichts überein und habe schon früher meiner abweichenden Meinung hierzu, die auf die Vorschriften der Militärstrafgesetzbuch-Vorordnung Nr. 7 basiert, Ausdruck verliehen. Aber die Entscheidung wurde im Anfang der Beweisführung für die Verteidigung gemacht und die Angeklagten, die sich auf die Entscheidung verließen, saßen dadurch veranlaßt worden sein, keine weiteren Gegenbeweise vorzubringen. Die Gerechtigkeit verlangt deshalb, dass diese Entscheidung im endgültigen Urteil Berücksichtigung findet, da die Taktik für diesen Fall auf dieser Theorie aufgebaut war. Es bleibt noch die Frage, welcher Wert von Schnitzler's Erklärungen als Zeugnis gegen ihn selbst beizumessen ist. Aus der Tatsache dass ich das Vorrecht einer Vernehmung des Angeklagten in öffentlicher Verhandlung beraubt bin und seinen Richtigstellungs- und Widerrufungsbestrebungen gegenüber stehe, schliesse ich, dass den belastenden Aussagen von Schnitzler's nicht der Wert beizumessen ist, der zu einer Verurteilung in seinem Falle ausreichten würde. Nicht ohne Bedenken komme ich zu dieser Schlussfolgerung. In allen Vorhören der Voruntersuchung sprach von Schnitzler scheinbar so bereitwillig und seine Aussagen, offenbar nicht unter Zwang gemacht, waren so vollständig, dass diese die Frage aufwarfen bis zu welchem Ausmass er sie zurücknehmen oder widerrufen würde bei einem endgültigen und erschöpfenden Verhör vor dem Gericht durch den Verteidiger. Aber im gegenwärtigen Stadium der Beweisaufnahme fühlte ich mich nicht dazu veranlaßt, meine gegenteilige Meinung in Bezug auf Freispruch von Schnitzlers auf Grund seiner eidestättlichen Versicherungen und Vernehmungen zum Ausdruck zu bringen.

(r) Nach dem Einmarsch in die restliche Tschechoslowakei im März 1939 wurde Hitlers vorbedachte Angriffspolitik zur Wirklichkeit. Der Angeklagte TER MEER sagte aus:

"Das Gefühl, dass unsere auswärtige Politik keinesfalls in Ordnung war, hatte ich wirklich erstmalig im März 1939, als deutsche militärische Kräfte die Tschechoslowakei besetzten. Ich war tief erschüttert, um so mehr, da die Sudetenland Frage in München geregelt worden war. Ich fühlte, dass die NSDAP Deutschland jetzt auf einen gefährlichen Weg führte. Ich fühlte, dass es der Bruch einer internationalen Vereinbarung war, des Münchener Paktes, und dass es eine Angriffshandlung gegen ein Land war, in dessen Angelegenheiten wir nicht berechtigt waren, uns einzumischen. Ich war erschüttert, da mir besonders die Geschichte über den Besuch des tschechoslowakischen Ministerpräsidenten Hacha bei Hitler, wie sie von deutschen Zeitungen wiedergegeben wurde, durchaus nicht natürlich vorkam."

Ter Meer erklärte weiter:

"Nach meiner damaligen Meinung war die Aussenpolitik der Nazis von diesem Zeitpunkt an ein gefährliches Spiel und führte direkt zur verbrecherischen Spekulation...."

ter Meer behauptet aber, dass er trotzdem beruhigt war, da er aus anderen Quellen erfuhr, dass Hitler nicht in den Krieg gehen würde und eine vernünftige Regelung der polnischen Korridor Frage annehmen würde. Betrachtet man das Beweismaterial im grossen und ganzen, so erscheint es verstandlich, dass ter Meer glaubte Hitler sei in der Lage, eine Lösung zu diktieren ohne dafür kämpfen zu müssen. Farben liess jedoch in seiner Festigkeit nicht nach, die militärische Macht vorzubereiten, die einen solchen Angriff möglich machen würde. Die Angeklagten machten gemeinsame Sache mit Hitler, zweifellos aus Furcht, dass die Fortsetzung von Hitlers Eroberungspolitik - durch die Besitzergreifung von Böhmen und Mähren wieder erwiesen - schliesslich zum Krieg führen könnte. Es bestand kein Widerwille, das Spiel zu wagen, obgleich die Möglichkeit eines Krieges mit jedem Angriffsschritt immer deutlicher wurde.

(s) Krauch hat einen Einblick in seine seelische Verfassung gewährt. In einem Bericht des Generalrats fuer den Vierjahresplan vom 28. April 1939 schliesst Krauch:

"Als am 30. Juni 1938 das Ziel der erhöhten Produktion auf dem hier besprochenen Arbeitsgebiet durch Feldmarschall (Goering) aufgegeben wurde, schien es, alsob die politische Führung den Zeitpunkt und das Ausmass der politischen Revolution in Europa selbständig bestimmen und einen Bruch mit einer Mächtigkeitsgruppe unter der Führung Grossbritanniens vermeiden könnte. Seit März dieses Jahres besteht kein Zweifel, dass diese Hypothese nicht mehr existiert..."

"Es ist fuer Deutschland notwendig, sein eigenes Kriegspotential sowie das seiner Verbündeten in einem solchen Masse zu steigern, dass die Koalition fast den Anstrengungen der restlichen Welt entspricht. Das kann nur erreicht werden durch neue, starke und vereinte Anstrengungen aller Verbündeten und durch Ausbreitung und Verbesserung des grossen Wirtschaftsbereiches - entsprechend der erhöhten Rohmaterial Grundlagen der Koalition und zuerst auf einer friedlichen Basis - nach dem Balkan und Spanien.

"Falls diesen Gedanken die Tat nicht mit grosser Geschwindigkeit folgt, werden uns alle Blutopfer im nächsten Krieg vor dem bitteren Ende bewahren, das wir uns schon früher einmal wegen Mangel an Voraussicht und festem Ziel bereitet hatten."

Hitlers Angriff und Hitlers offensichtliche Vorbereitungen fuer weitere Angriffe, die Krauch mit "politische Revolution" bezeichnet, fachte 1939 dazu, dass verschiedene Laender der bevorstehenden Gefahr, in der sie sich befanden, in zunehmender Weise gewahr wurden und endlich eine wachsende Bewegung entstand, dem Angreifer Einhalt zu gebieten. Krauch, in Uebereinstimmung mit Hitlers Propaganda, nennt es die Einkreisung Deutschlands. Solch eine Entstehung der historischen Wahrheit kann nicht akzeptiert werden, aber das angeführte Material erbringt nicht den klaren Beweis ueber die positive Kenntnis um einen Plan fuer Fuehrung eines Angriffskrieges.

Krauch sagte aus, dass er nach dem Einmarsch in Böhmen und Mähren, im Sommer 1939, zu Goering auf der Insel Sylt eingeladen war.

Er behauptet, Goering erklart zu haben, dass er den Eindruck hatte, das Munchener Abkommen wurde nicht eingehalten, da Deutschland in die Tschechoslowakei einmarschiert sei und dass Krauch von auslaendischer Seite den Eindruck gewonnen habe, die Auslandsmachte wuerden "weitere politische Verwirrungen" nicht zu lassen ohne "uns den Krieg zu erklaren". Krauch fuegte hinzu, dass das Schlagwort "Halt dem Angreifer" in allen Zeitungen zu lesen sei. Krauch erwachte zu Goering, dass im Falle eines Krieges zwischen Deutschland und Russland, Frankreich und England auf der Seite dieser zwei Staaten kampfend wuerden. Krauch bezeugte, dass Goering sagte "Sie brauchen einen Krieg nicht zu befuerchten; Krieg gibt es nicht." Diese Aussage ist weiterhin erleuchtend insofern als sie den Begriff der Verteidigung in Bezug auf einen "Verteidigungskrieg" darstellt. Als Verteidigungskrieg werden die "politischen Verwirrungen" hingestellt, die die Folge weiterer deutscher Angriffe sein wuerden; es wird aber nicht einwandfrei nachgewiesen, ob es bekannt war, dass solche weitere Angriffe bis zum Angriffskrieg getrieben werden wuerden, wenn sich ein Widerstand zeigte.

(t) Von nicht geringer Bedeutung ist die durch Beweise zweifellos belegte Tatsache, dass Farben im Sommer 1938 von sich aus sorgfaeltige Vorbereitungen unternahm, fuer den Fall eines Krieges seine im Ausland befindlichen Aktiva zu verbergen. Auch wurde eine Liste der hauptsaechlichsten chemischen Werke in Polen aufgestellt. Es ist immerhin moeglich, wie die Verteidigung behauptet, dass die Verheimlichung auslaendischer Aktiva eine geschaeftliche Vorsichtsmaassregel war, die nicht notwendigerweise der absoluten Kenntnis einer Entscheidung fuer den Angriffskrieg entsprang. Es ist ebenso moeglich, dass das Aufstellen einer Liste der sich in Polen befindlichen chemischen Werke nicht unbedingt die Folge eines Sonderwissens mit Bezug auf fuer einen Angriffskrieg geschmiedete Plaeane war. Jeder diesbezaeufige Zweifel kommt trotz aller Schlussfolgerungen auf Kenntnis moeglicher weiterer Angriffe, die dadurch bewiesen werden, den Angeklagten zu Gute.

(u) Ein glaubwuerdiger Zeuge, Hans Wagner, der in Farben Ver-mittlungsstelle 7 angestellt war, fasst die Kenntnis, die er als untergeordneter Angestellter hatte, folgendermassen zusammen:

"Infolge dieser Vorbereitungen bestand bei mir um die Mitte des Jahres 1938 kein Zweifel, dass Deutschland einen Angriffskrieg plante. Ich glaube behaupten zu koennen, dass alle meine Kollegen in der Ver-mittlungsstelle 7 derselben Meinung waren. Mehrere Tatsachen veran-lassten mich zu dieser Schlussfolgerung.

"Die Tatsache, dass mehrere meiner Bekannten ploetslich eintufen wurden, dass andere nach der ueblichen Dienstzeit nicht entlassen wurden, sondern bei ihren Einheiten verblieben, wo sie die Mob-plaeane der einzelnen Werke in Gang setzten, besonders die bereits erwachten von Ludwigshafen, die Betriebsaufnahme des Stabilisierungs-werkes in Tolfen zu Ende des Jahres 1938/Beginn des Jahres 1939, P roduktionssteigerung von Diglycol, das fuer Sprengstoffe angewandt wurde, das von der Wehrmacht gezeigte Interesse fuer Senfgas (Kirekt-Lost), welches in Gandorf hergestellt werden sollte.

"Nach der allgemeinen politischen Lage konnte ich nicht annehmen, dass andere Mächte uns im Jahr 1939 den Krieg erklären würden. Diesen Eindruck gewann ich von gelegentlichen Unterhaltungen über Patente und Konzessionen mit Offizieren und Beamten der deutschen Wehrmacht; auch erhielt ich verschiedene Andeutungen über die Rüstungslage in nicht-deutschen Ländern. Dies geschah stets dann, wenn wir die Gelegenheit hatten, die Möglichkeit einer Freigabe deutscher Patente zu besprechen. Man konnte daraus schliessen, dass die fremden Mächte sich nicht mit besonderen Kriegsvorbereitungen befassten.

"Überdies konnte ich in der Vermittlungsstelle T ausländische Zeitungen lesen, die sonst in Deutschland verboten waren und die von der Gestapo und dem SS-Sicherheitsdienst dem Offizier des Abwehrdienstes bei der Vermittlungsstelle T, Dr. Diekmann zur Verfügung gestellt wurden und ihnen zuruckgegeben werden mussten. Aus diesen Zeitungen erah ich, dass ausländische Mächte zu jener Zeit einen Krieg nicht in Betracht zogen.

"Durch meine Bekanntschaft mit verschiedenen Wehrmachts-offizieren, die keineswegs auf persönlicher Freundschaft sondern eher auf rein berufsmässiger Zusammenarbeit beruhte, erfuhr ich von Truppenbewegungen nach dem Osten und dem Westen vor dem Ausbruch des Krieges. Dies hielt ich ebenso fuer ein Zeichen des Angriffskrieges wie die Experimente und die Entwicklungsarbeiten der IG mit der Wehrmacht."

In seiner Aussage vor dem Gerichtshof erläuterte Wagner die Umstände, die ihn zu dieser Schlussfolgerung veranlassten:

"Ich moechte Ihnen noch ausführlicher darüber berichten, was mich zu dieser Annahme veranlasste. Infolge meiner Tätigkeit bei der Vermittlungsstelle T auf dem Gebiete der Entwicklungsarbeiten, die von der Wehrmacht im Zusammenwirken mit der IG betrieben wurden und ebenso in Verbindung mit meiner Beschäftigung mit Patentfragen hatte ich bei geistigen Gelegenheiten, diese Angelegenheiten mit Beamten und Offizieren der Wehrmacht zu erörtern. Diese Besprechungen fanden meistens in den Büros der Wehrmacht statt, nicht in meinen Diensträumen. Es kam oft vor, dass ausser dem eigentlichen Gegenstand der Besprechung andere Angelegenheiten erörtert wurden, die nicht streng genommen zu meiner beruflichen Tätigkeit gehörten. Dies geschah ganz vertraulich. Ich konnte es oft nicht vermeiden, Unterhaltungen mit einer Anzahl von Offizieren beizuwohnen oder Telefongesprächen zuzuhören, die diese Herren bei solchen Gelegenheiten führten. Im Laufe mehrerer Wochen erfuhr ich, dass sich gewisse Truppenbewegungen abspielten, doch konnte ich über ihren genauen Plan nichts hören. Auch über ihr genaues Endziel konnte ich nichts erfahren. Ausserdem erhielt ich weitere Auskunft über diese Truppenbewegungen auf Grund gewisser Entwicklungsarbeiten, die von der Wehrmacht in Zusammenarbeit mit IG betrieben wurden. Gewisse Versuche sollten mit IG Produkten angestellt werden, mussten aber verschoben werden, weil die Verbände, welche zu diesen Versuchen benoetigt wurden, aus unerklärlichen Gründen ihren Standort gewechselt hatten.

"Ausserdem erinnere ich mich, dass Versuche mit Rauchbogen fuer die Marine verschoben werden mussten infolge der Verlegung dieser Einheiten. Ich halte es fuer noetig, dies meiner eidesstattlichen Erklärung hinzuzufügen."

Das Kreuzverhoer ergab keine wesentliche Beschränkung. Eine derartige Aussage berechtigt zu dem begründeten Verdacht, dass Quellen

vertraulicher Mitteilungen und Auskünfte, welche Persönlichkeiten in so hohen Stellungen wie die der Vorstandsmitglieder zu Gebote standen, ihnen wenigstens jene Kenntnisse zugänglich machten, die der Zeuge Wagner zu erwerben im Stande war. Farben - und das heisst zu allererst die Mitglieder des Farben Vorstandes - verfügten über ein eigenes weitverbreitetes Nachrichtensystem, das dazu beauftragt und angewandt wurde, den Lauf der Ereignisse in vielen Teilleiden zu beurteilen; es ist schwer glaubhaft, dass ein so vollkommen eingearbeiteter Nachrichtendienst die Bedeutung der im Sommer 1939 in Deutschland stattfindenden Ereignisse übersehen haben konnte.

So ist es nicht absolut bewiesen, dass Farbens Vorstandsmitglieder positive Kenntnis davon hatten, dass ein Angriffskrieg geplant war, wenn schon sie einer solchen Möglichkeit stets gewärtig sein mussten.

Die Anklage hat in diesem Falle nie die Behauptung aufgestellt, dass Hitlers Pläne für einen Angriffskrieg Allgemeinwissen in Deutschland waren. Die Anklage hat im Gegenteil eine solche Behauptung ausdrücklich verneint und sich auf Anführungen verlassen, die darauf hinweisen, dass diese Angeklagten dank ihrer Stellungen bei Farben und der Sonderkenntnisse, die sie infolge der Aufgaben, mit denen sie betraut waren, besaßen, in weit besserer Lage als ein gewöhnlicher deutscher Bürger standen, die Tragweite der von ihnen unternommenen Handlungen einzuschätzen und zu beurteilen. Auf politische Ereignisse, wie die Verkündung des Programms der Nazi-Partei und die aufeinander folgenden Angriffe, die in Deutschland allgemein bekannt waren, wurde Bezug genommen, nicht als Belege für die Begründung des verbrecherischen Vorbedachtes sondern eher als Grundlage für eine richtige Einschätzung der Bedeutung jener besonderen Kenntnis, welche die Angeklagten angeblich hatten. Eidestättliche Erklärungen, Feststellungen und Aussagen mehrerer Angeklagten widerlegen die ausführlich im Urteil des Tribunals entwickelten Behauptungen, dass diese Angeklagten der von Hitler öffentlich beteuerten Friedensliebe ernstlichen Glauben schenkten. Die Angeklagten begannen mehr und mehr, an Hitlers Endzielen zu zweifeln. Die Beweise sprechen stark dafür, dass alle Angeklagten die Möglichkeit eines Krieges befürchteten und dass wesentliche Auswirkungen der Kooperationspolitik Farben auf der Möglichkeit dieses Krieges begründet waren. Die im Urteil des Gerichtshofes hervorgehobenen Nicht-Angriffspakte müssen als getrennte Massregeln in der Errichtung der europäischen Achse angesehen werden. Weit davon entfernt als Beweis für ein Bestreben der Friedensbewahrung zu gelten, verstärkten sie die Kriegsaussichten, was allen Angeklagten klar und sichtbar gewesen sein muss. So wurde z.B. der Nicht-

Angriffs-Pakt vom 23. August 1939 zwischen Deutschland und Russland allgemein daraufhin ausgelegt, dass es die Möglichkeit weiterer zum Angriffskrieg fuhrende Vorstoesse nur vermehrte. In Bezug auf politische Ereignisse in Deutschland vor dem Einfall in Polen ist die Stellung dieser Angeklagten durchaus nicht die eines Durchschnittsbuergers in Deutschland, eines berufstatigen Mannes, Landwirts oder Industriellen wie im Urteil des Gerichtshofes erwahnt. Doch sind die erbrachten Beweise derart, dass, trotz ihrer Stellungen, die den Angeklagten mehr als anderen die richtige Einschaetzung des wahren Sinnes der Ereignisse ermoglichte, jeder Zweifel zu ihren Gunsten ausgelegt werden muss.

II.

Die obige Zusammenfassung gewisser besonderer Beweispunkte, die sich auf Kenntnis und verbrecherischen Vorbedacht beziehen und die aus dem ungeheuer umfassenden, dem Gerichtshof von der Anklage vorgelegten Beweismaterial ausgewahlt wurden, wird dem umfangreichen Bericht keineswegs gerecht. Es ist von Wichtigkeit, ausfuhrlich auf eine Anzahl von Tathandlungen der Firma Farben einzugehen, die der letzteren Beteiligung an der Aufruestung und Kriegsvorbereitung des Naziregimes sowie deren Identifizierung damit klar zur Schau tragen. Die Anklage behauptet, dass die einzelnen Persoenlichkeiten mittels der Firma Farben sich angeblich dieser Verbrechen schuldig machten. Die Entwicklung und die Koerperschaftsmerkmale der Firma Farben, die aus dem Bericht ersichtlich sind, werden als Grundlagen einer genaueren Einschaetzung der Stellungen der Angeklagten bei Farben dargestellt.

Ursprung und Entwicklung der Firma Farben:

Die Geschichte der Firma Farben ist mehr oder weniger ein Bericht ueber die Entwicklung der chemischen Industrie in Europa. Im Jahre 1904 wurde mit der Bildung der zwei "Interessen-Gemeinschaften", von denen die eine Bayer, Aktiengesellschaft fuer Anilinfabrikation und Badische Anilin und Soda-Fabrik, die andere Cassella und Meister Lucius & Bruning einschloss, der erste Schritt zur Vereinigung mehrerer deutscher Unternehmungen getan.

Am 9. Dezember 1925 aenderte die Badische ihren Namen in die jetzige Bezeichnung der "Interessen-Gemeinschaft Farbenindustrie Aktiengesellschaft" und verschmolzte ihre Interessen mit denen von fuenf anderen fuhrenden chemischen Firmen Deutschlands in einer neuen Koerperschaft unter der Bezeichnung Farben. Im September 1926 ging daraus eine Vereinigung mit einem Gesamtkapital von 1.1 Billionen Reichsmark hervor, d.h. mehr als dem dreifachen Gesamtkapital aller uebrigen chemischen Unternehmungen von Einfluss in Deutschland, und uebernahm damit unbestritten die vorherrschende Stellung auf dem Gebiete der deutschen Chemie.

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Aus diesen Anfängen heraus erweiterten Farben laufend ihre Fabriken, ihre Produktionszweige und ihren wirtschaftlichen Einfluss. In 1940 besaßen sie, oder beteiligten sich an mehr als 400 Firmen in Deutschland und ungefähr 500 Firmen im Ausland (48 davon befanden sich in den Vereinigten Staaten), sie hatten die Kontrolle über eine grosse Anzahl von Patenten (28000 ausländische Eintragungen) in allen bedeutenden Chemikalienproduktionszweigen der Welt.

Während des Höhepunktes ihrer Tätigkeit zeigten Farben und ihre Tochtergesellschaften, inklusiv der Dynamit A.G., einen Jahresumsatz von RM 4 Milliarden. Betreffs der internen Struktur und Funktion von Farben ist das Folgende zu bemerken:

Die Aktiengesellschaft - ("A.G."), ähnlich einer amerikanischen "stock corporation" hat zwei Verwaltungsorgane, eines ist mit der allgemeinen Aufsicht, das andere mit der eigentlichen Leitung betraut. Das eine heisst "Aufsichtsrat" (häufig als "supervisory Board of Directors" übersetzt) und das andere "Vorstand" (häufig als "Managing Board of Directors" übersetzt). Zusammen üben diese beiden Organe die gewöhnlichen Funktionen eines Direktoriums aus.

"Interessen-Gesellschaft" (I.G.) heisst wörtlich übersetzt eine "Gemeinschaft von Interessen", im allgemeinen in einem formellen Übereinkommen zwischen zwei oder mehr Geschäftsfirmen zum Zwecke des gegenseitigen Festhaltens ihrer Bestimmungen betreffs solcher Angelegenheiten, wie Zusammenfügung oder Teilung von Gewinnen, Aufteilung der Absatzmärkte, Überwachung der Preise, Koordinierung der Herstellung und der Verteilung, Forschungsarbeiten, Patentfragen usw. usw. ausgearbeitet. Ein hervorragendes Beispiel war der zwischen 1916 und 1935 bestehende Konzern von 8 bedeutenden deutschen chemischen Firmen, häufig als die "alte I.G." bezeichnet, der schliesslich am 7. Dezember 1935 formell zur I.G. Farben A.G. zusammengeschlossen wurde.

Die Organisation der Leitung der I.G. Farben und ihre Delegationen.

Der Aufsichtsrat:

Die Periode des eigentlichen Bestehens der I.G. mit der sich diese Untersuchung befasst war charakterisiert durch (a) einen Rückgang in der zahlenmässigen Zusammensetzung seiner Verwaltungsorgane, und (b) durch ein Ansteigen der Anzahl und Art der untergeordneten Gruppen innerhalb dieser Organe, denen grosse Autoritäten und Exekutivfunktionen übertragen wurden.

Alle, oder eine grosse Anzahl der fuhrenden Persoenlichkeiten der Vorlaeuferfirmen wurden dem einen oder dem anderen der Organe zugewiesen; das Resultat war, dass der erste Aufsichtsrat aus 55, und der erste Vorstand aus 82 Mitgliedern bestand. Da diese Organe fuer eine wirksame Aufsicht und Leitung der neuen Gesellschaft zu schwach waren, wurden kleinere, ausgesuchte Gruppen aus jedem der beiden Organe gebildet, um die meisten Funktionen mit denen die letzteren betraut waren, auszuueben.

Der Vorstand:

Urspruenglicher Vorstandsarbeit ~~aus~~ Ausschuss:

1926 bestand der Vorstand aus ueber 80 Mitgliedern. Von seinen Mitgliedern wurde ein Arbeiterausschuss, bestehend aus 26 Mitgliedern, gewaehlt um in Ausfuehrung der Satzungen die eigentliche Leitung der Gesellschaft zu uebernehmen. Dieser Ausschuss fungierte bis zum 7. April 1938 als verantwortlicher Geschaeftstraeager, er wurde dann auf Grund der Statutenabanderung von 1937, die eine solche Autoritaetsuebertragung und Handlungsweise des Vorstandes nicht zulies, abgeschafft.

Die folgenden Angeklagten waren Mitglieder des Arbeiterausschusses KRAUCH (1929-1938), SCHMITZ (1926-1938), v. SCHNITZER (1926-1938), GAJEWS (1929-1938), HUEHLEIN (1931-1938), v. KNIRRIEM (1931-1938), TER MEER (1926-1938), SCHNEIDER (1937-1938), HUETEFISCH (1933-1938), ILONER (1933-1938), KUEHNE (1926-1938), MAHN (1931-1938), OSTER (1929-1938), WURSTER (1936), GATTINEAU (1932-1935).

Der neuorganisierte Vorstand (1938):

Mit dem Ausscheiden des Arbeiterausschusses wurde die Stelle des stellvertretenden Vorstandsmitgliedes abgeschafft; die zahlenmassige Zusammensetzung des Vorstandes wurde auf weniger als 30 reduziert, und die Mitgliedschaft auf Personen, die aktiv an der Verwaltung und Fuehrung der I.G. teilnahmen, beschaenkt. Der neue Vorstand bestand hauptsaechlich aus den Mitgliedern des alten Arbeiterausschusses, den 15 obenangefuehrten. Angeklagten mit Ausnahme von GATTINEAU und 5 weiteren Angeklagten: AIGROS, BUEHRIG, HUEFLIGER, JAEHNE und LAUTENSCHLAGER, alle nahmen bis 1945 teil. SCHMITZ war von 1926 bis 1945 Vorsitzender.

Pflichten und Verantwortung des Vorstandes:

Die ungoerbeiteten Eingliederungsparagraphen, die von der I.G. 1938 angenommen wurden, sehen in Artikel III, Absatz 11 (1) vor, dass der Vorstand "auf eigene Verantwortung die Geschaefte der Gesellschaft in einer Weise ausfuehrt, wie es das Wohlergehen des Unternehmens und seiner Angestellten, sowie die allgemeine Staetlichkeit fuer das Volk und den Staat erfordern."

Der Angeklagte KRAUCH fasste die Struktur der Leitung der I.G. folgendermassen zusammen:

"Nach 1937 spielte der Aufsichtsrat in der Leitung der I.G. Angelegenheiten keinerlei Rolle. Ich kenne kein Beispiel, wo der Aufsichtsrat den Handlungen des Vorstandes nicht zustimmte oder sie anzweifelte. Der Vorstand war vollkommen Herr aller I.G. Geschäfte und gänzlich fuer sie verantwortlich."

Dem obigen zufolge erscheint es als ob der Vorstand der I.G. Plenargewalt in seiner Geschäftsleitung besass.

Die Art 400 Geschäftsunternehmen innerhalb Deutschlands und 500 ausländische Branchen zu fuhren, verlangte eine Dezentralisierung der Funktionen des Vorstandes. Dieses wurde durch eine Pyramide von Ausschüssen, Arbeitsgemeinschaften, Sparten, Kommissionen und Konferenzen, mit der Zentralkommission an der Spitze, erreicht. Das letztere nahm eine Stellung, die mit dem "Executive Committee" einer amerikanischen Gesellschaft zu vergleichen ist, ein.

Besondere Aufgaben fuer Vorstandsmitglieder:

Zusätzlich zu der allgemeinen Verantwortung, die das deutsche Recht, der Charakter der I.G. und die Vorstandssetzungen allen Mitgliedern des Vorstandes auferlegte, wurde in der Tat jedem Mitglied ein Haupttätigkeitsbereich, in dem ihm besondere Verantwortungen im Namen der ganzen Kooperationsgesellschaft zugewiesen wurden, auferlegt. Diese Aufgaben fielen, allgemein gesprochen, entweder in das "technische" oder "geschäftliche" Gebiet, und qualifizierten das Mitglied als "Fuehrer" in seinem Gebiet. Eine kurze Zusammenfassung dieser spezialisierten Tätigkeiten wird helfen die persönliche Tätigkeit jedes einzelnen Angeklagten in Bezug auf die jeweiligen Anklagepunkte zu verfolgen.

Von 1930 bis 1935 war der "Zentralausschuss" das aktive Rad innerhalb eines Rades des "Arbeitsausschusses" in dem Vorstand. Mit dem Tode Carl DUISBERG's in 1935 bekam der Angeklagte SCHMITZ die Doppelfunktion des ^{des Vorstandes} Vorsitzenden/und des Zentralausschusses. Seitdem behandelte der Zentralausschuss hauptsächlich Personalfragen, insbesondere die Auswahlung von Prokuristen und anderer hoherer Beamten (Personen, die eine allgemeine Vollmacht besaßen, eine im deutschen Geschäftsgebrauch durchaus übliche Handhabung). Dieser Ausschuss unterlebte die Abschaffung des Arbeitsausschusses Anfang 1938 und bestand bis zum Zusammenbruch in 1945. Die folgenden Angeklagten waren während der angeführten Zeit Mitglieder: KRAUCH (1933-1940), SCHMITZ (1930-1945), v. SCHNITZLER (1930-1945), GAJEWSKI (1933-1945), HOERLEIN (1933-1945), v. KNIERIEM (1938-1945), TER MEER (1933-1945), SCHNEIDER (1938-1945).

Der Technische Ausschuss (TEA) und die untergeordneten

Dienststellen.

Die hauptsächlichen Machtbefugnisse und die letzte Verantwortlichkeit ruhten beim Technischen Ausschuss. Wie der Name besagt, setzte er sich aus technischen Vorstandsmitgliedern und anderen bedeutendem technischen Personal (Wissenschaftlern, Ingenieuren, Betriebsleitern) zusammen, die nicht Vorstandsmitglieder waren. Unmittelbar nach der Verschmelzung der Gesellschaften im Jahre 1926 gebildet, befasste er sich bis zum Jahre 1945 mit allen technischen Fragen der wissenschaftlichen Forschung und der Produktion, der Erweiterung von Betriebsanlagen, der Konsolidierung und der Empfehlung von Kreditanträgen. Er hatte ein zentrales Verwaltungsbüro, das TEA-Büro in Berlin, das von einem Dr. Ernst Struss geleitet wurde. Zwölf der Angeklagten waren ordentliche Mitglieder während des angegebenen Zeitabschnittes, nämlich Krauch (1929-1945); Gajewski (1929-1945); Hoerlein (1931-1945); ter Meer (1925-1945); Schneider (1938-1945); Ambros (1938-1945); Buergin (1938-1945); Buetevisch (1938-1945); Jaehne (1938-1945); Kuehne (1929-1945); Lautenschlaeger (1938-1945); Wurster (1938-1945); und während der angegebenen Jahre waren die folgenden Angeklagten häufige Besucher oder Gäste, nämlich: Schmitz (1925-1945); von Schnitzler (1929-1945); von Krieger (1931-1945); Schneider (1929-1938); Buergin (1937-1938); Buetevisch (1932-1938); Jaehne (1926-1938). Der Angeklagte ter Meer war Vorsitzender von 1933 bis 1945.

Dieser Technische Ausschuss bediente sich ihm unterstellter Komitees, um die Produktionspläne und den Informationsaustausch ueber Forschung, Entwicklung und Anwendung, nebst Gutachten ueber Geldzuwendungen fuer Neubauteilen aufzustellen, zu pruefen und zu empfehlen. Solcher Unterausschuesse gab es 36 in der Chemie, 5 im Maschinenbau; die letzteren in einer "Technischen Kommission (TEKO)" zusammengefasst mit dem Angeklagten Jaehne von 1932-1945 als Vorsitzenden.

Der Kaufmaennische Ausschuss (KA)

Zum Unterschied vom "Technischen" stellte der "Kaufmaennische Ausschuss" das Gegenstueck in der Geschaeftsfuehrung des Vorstandes dar.

Der Kaufmaennische Ausschuss wurde kurz nach dem im Jahre 1926 erfolgten Verschmelzung zur Unterstuetzung des Vorstandes bei der Leitung und Vereinheitlichung der kaufmaennischen Angelegenheiten der I.G. gebildet, wie Verkauf, Werbung, kaufmaennisches Personal, im Inlande als auch im Auslande, Wirtschaftsprobleme, die die Interessen der I.G. beruehrten usw. Er verfiel bis zum Jahr 1933 nach und nach in Untaetigkeit, wurde aber im August 1937 unter der Fuehrung des Angeklagten von Schnitzler wieder neu gebildet und war darnach bis zum Jahre 1945 eine sehr taetige und wichtige Gruppe des Vorstandes. Ausser von Schnitzler sassen die Angeklagten Haefliger, Ilgner, Mann und Oster von 1937 an und der Angeklagte Kugler von 1940 an bis zum Zusammenbruch Deutschlands darin. Die Gesamtmitgliederszahl betrug ungefaehr 20 und umfasste die Leiter der Verkaufsgemeinschaften und ihre unmittelbaren Mitarbeiter und die Leiter der "Zentral-Abteilungen", der Finanz- Buchhaltungs- Einkaufs- und wirtschafts-politischen Abteilung. Der Angeklagte Schmitz wohnte den Sitzungen dieses Ausschusses als regelmassiger Gast bei und die Angeklagten Gajewski, von Knieriem und ter Heer gelegentlich. Fuer alle Beschluesse des KA war Genehmigung des Vorstandes erforderlich.

"Gemischte Ausschuesse".

Die Koordinierung zwischen den technischen und kaufmaennischen Leitern der I.G. erfolgte anfaenglich im Vorstand, in dem sich die hervorragendsten Fuehrer zwecks Entgegennahme und Besprechung von Berichten der einzelnen Mitglieder ueber Angelegenheiten, in denen sie besondere Verantwortlichkeiten besaessen und zwecks Beschluss-

fassung ueber die allgemeine Politik trafen. Vorlaeufige Sichtung solcher Angelegenheiten erfolgte jedoch haeufig durch sogenannte "gemischte" Ausschuesse; die hauptsaechlichsten waren: der Chemische Ausschuss (Leiter: von Schnitzler nach 1943), der Farbstoff-Ausschuss (Leiter: von Schnitzler) und die Pharmazeutische Hauptkonferenz (Leiter: Hoerlein). Jedem dieser Ausschuesse geherten bedeutende technische und kaufmaennische Leiter an. Die Chefs der Ausschuesse berichteten direkt an den Vorstand.

Der industrielle Instanzenweg bei der I.G.

Die Ausfuehrung der von den oben skizzierten Organen festgelegten Grundlinien und Plaene erfolgte durch ein System der "dezentralisierten Zentralisation" von Erzeugung und Verteilung. Nach der Konsolidierung wurden die Betriebsgruppen in der Hauptsache nach ihrer geographischen Lage zusammengefasst in

"Betriebsgemeinschaften".

Die vier urspruenglichen Gemeinschaften hiessen Oberrhein, Maingau, Niederrhein und Mitteldeutschland. Im Jahre 1929 wurde eine fuenfte gegruendet, die "Betriebsgemeinschaft Berlin" hiess, obgleich ihre Betriebe weit zerstreut lagen. Bis zum Jahre 1929 regelten die Betriebsgemeinschaften Angelegenheiten wie die allgemeine Verwaltung, Forschung, Transportwesen, Lagerung usw. in ihren betreffenden Gebieten und befassten sich auch mit groesseren technischen Problemen, die ihre Betriebe angingen. An der Spitze dieser Gemeinschaften standen die Angekлагten: Oberrhein, Krauch (1938-1940); Wurster, (1940-1945); Maingau, Lautenschlaeger (1938-1945); Jaehne, Stellvertreter waehrend desselben Zeitraums; Niederrhein, Kuehne (1933-1945); Mitteldeutschland, Buergin (1938-1945); Berlin, Gajewski (1929-1945).

Die "Sparten" (Hauptgruppen).

Im Jahre 1929 wurden im Interesse der Leistungsfähigkeit auf dem Gebiete der Forschung und Produktion und zum Zwecke der besseren Zusammenarbeit der Einzelbetriebe drei Hauptdirektionsgruppen, Sparten genannt, eingerichtet. Die Zugehörigkeit bestimmte sich nunmehr eher auf Grund der Erzeugnisse als nach Betrieben oder der geographischen Lage; dadurch kamen einige Betriebe, die mehrere Erzeugnisse herstellten, unter Aufsicht und Leitung von mehr als einer Sparte.

Sparte I befasste sich mit Stickstoff, synthetischen Treib- und Schmierstoffen und Kohle. Von 1929 bis 1938 war Krauch ihr Leiter; darnach war Schneider Leiter und Buetafisch stellvertretender Leiter. Sparte II umfasste Farbstoffe und Farbstoff-Zwischenprodukte, verschiedene Chemikalien, Pharmazeutika, Buna, Leichtmetalle, chemische Kampfstoffe. An der Spitze der Sparte II stand von 1929 bis 1945 der Angeklagte ter Meer. Die kleinste, die Sparte III, umfasste photographische Artikel, synthetische Fasern, Zellulose, Sprengstoffe, Zellophan und Oxalid. Ihr Leiter war von 1929 bis 1945 Gajewski.

Die Betriebe.

Unter diesem obenskinzierten komplizierten organisatorischen Oberbau erfolgte die schliessliche Entwicklung, Herstellung und Verteilung der vielen und verschiedenartigen I.G.-Produkte auf der Ebene der "Betriebe". Jeder grössere Betrieb stand gewöhnlich unter der persönlichen Leitung eines Vorstandsmitgliedes, der sein Hauptbureau im Betrieb hatte. In einigen Fällen unterstanden einem Mitglied mehr als ein Betrieb; in anderen bestand eine Teilung in der Geschäftsführung je nach der Produktion.

Die folgenden Angeklagten waren als Betriebsführer der im Zusammenhang mit der Herstellung der angegebenen Produkte aufgeführten Betriebe für die Leitung verantwortlich:

GAJEWSKI war Betriebsführer der Wolfener Filmfabrik und von 1931-1945 Geschäftsführer der "AGFA"-Betriebe in Wolfen-Filmfabrik, Berlin-Lichtenberg, Prenzlitz, Landsberg, München-Kamerawerk, Bobbingen und Rottweil, die photographische Artikel, Kunstseide, Kunstfasern, Zellwolle, Zellulose, alle Arten von Zellulose-Erzeugnissen und Cyalid herstellten.

HERLEIN war von 1933-1941 Betriebsführer der Elberfelder Fabrik und von 1931 - 1941 Geschäftsführer der Elberfelder Fabrik, die Pharmazeutika, organische Zwischenprodukte, Schädlingsbekämpfungsmittel und biologische Präparate herstellte und sich mit der Forschung auf dem Gebiete der Pharmazeutika, Chemikalien für Pflanzenschutz und Seuchenbekämpfung befasste.

SCHNEIDER war Betriebsführer des Ammoniakwerkes Merseburg (Leuna) in der Zeit von 1936-1938; von 1938-1945 Leiter des Ammoniakwerkes in Merseburg (Leuna); von 1928-1936 stellvertretender Leiter des Ammoniakwerkes Merseburg und Leiter des Betriebes Leuna; diese Betriebe stellten anorganische Stoffe und Stickstoff her, organische Zwischenprodukte, Lösungsmittel, Weichmachungsmittel, Methanol, Hilfsstoffe zum Färben und Drucken, Reinigungsmittel, Rohstoffe, Benzin und Schmieröle.

AMERCS war Leiter der folgenden Betriebe: Schkopau (Buna I) von 1935-1945; Ludwigshafen-Coppau (Organische Stoffe, Zwischenprodukte und Farbstoff-Betriebe und Laboratorien) von 1938-1945; Huels (Buna II) von 1938-1945; Ludwigshafen (Buna III) von 1941-1945; Auschwitz (Buna IV) von 1941-1945; Gendorf (Anorganische Stoffe) von 1941-1945; Dyhernfurt von 1941-1945; Falkenhagen von 1942-1945; die synthetischen Kautschuk, anorganische Stoffe und Stickstoff, organische Zwischenprodukte, Lösungsmittel, Weichmacher, Methanol, Kunststoffe, Beschleuniger, Farbstoffe, Hilfsmittel zum Färben

und Drucken, Waschmittel-Rohstoffe, Giftgas und Zwischenprodukte herstellten.

BUERGIN war von 1938-1945 Betriebsfuehrer der Betriebe in Bitterfeld-Wolfen, die anorganische Stoffe und Stickstoff, organische Zwischenprodukte, Kunststoffe, Magnesium und Aluminium, Farbstoffe, Hilfsmittel zum Färben und Drucken, Waschmittelrohstoffe, Schaedlingsbekaempfungsmittel, Leichtmetalle herstellten.

BUETEFISCH war von 1931-1945 technischer Leiter der Leuna-Werke Merseburg, stellvertretender Leiter des Ammoniakwerkes Merseburg von 1934-1945 und von 1941-1945 Leiter in Auschwitz (synthetisches Benzin); diese Betriebe stellten Stickstoff, Benzin, Schmieroel, Methanol, Mersol, organische Zwischenprodukte und Fettsaeure her.

KUEHNE war von 1933-1943 Betriebsfuehrer in Leverkusen, wo anorganische Stoffe, organische Zwischenprodukte, Buna, Kunststoffe, Pharmazeutika, Schaedlingsbekaempfungsmittel, Azetylenzellulose und Kunstfasern hergestellt wurden.

LAUTENSCHLAGER war von 1938-1945 Betriebsfuehrer der Hoechst Fabrik, die anorganische Stoffe, Loesungsmittel, organische Zwischenprodukte, Kunststoffe, Pharmazeutika, verdichtete Gase, Schweiß- und Schneidapparate und Sauerstoff herstellte.

WURSTER war " waehrend des zweiten Weltkrieges " Betriebsfuehrer in Ludwigshafen-Opau und von 1938-1945 Technischer Direktor von Ludwigshafen-Opau, wo anorganische Stoffe, organische Zwischenprodukte, Buna, Kunststoffe, Loesemittel, synthetischer Kautschuk, Gerbemittel, Farbstoffe, Waschmittelrohstoffe und Aethylenoxid hergestellt wurden.

Wo der jeweilige Leiter eines Betriebes nicht Vorstandsmitglied war, erhielt er Befehle und Auskünfte von dem Leiter seiner Sparte, dem Leiter der Betriebsgemeinschaft oder es gab irgendein anderes Mittel der Gleichordnung und Ueberwachung durch den Vorstand. Es ist absolut klar, dass alle Linien beim Vorstand zusammenliefen.

Verwaltungsmaessige Gleichrichtung.

Im Jahre 1927 wurde die erste zentrale Verwaltungsstelle in Berlin NW 7 unter den Angeklagten Ilgner eingerichtet. Dies war die Zentrale Finanzverwaltung (ZEFI). Ihr folgte im Jahre 1929 die Volkswirtschaftliche Forschungsstelle (VOWI) und eine Wirtschaftspolitische Abteilung im Jahre 1933. Der Zweck der letzteren war, zwischen den kaufmaennischen Abteilungen der IG und den Regierungsstellen eine enge Zusammenarbeit sicherzustellen. Im Jahre 1935 kam ein Zentralamt, "Vermittlungsstelle" fuer die Verbindung mit der Wehrmacht hinzu, das sich schliesslich mit solchen Angelegenheiten, wie Mobilisierungsfragen und Plaenen militaerischer Sicherheit, Abwehr, Geheimpatente, Forschungsarbeit fuer die Wehrmacht usw. befasste. Ihre Arbeit war von solch grosser Wichtigkeit, dass jede Sparte einen Chef und einige Hilfsarbeiter fuer ihren Stab benannte. Der Angeklagte von der Heyde leitete die Abwehrtaetigkeit unter der Gesamtleitung des Angeklagten Schneider.

Verkaufsgemeinschaften fuer die vier Hauptkategorien von IG-Produkten, jede unter einem Vorstandsmitglied, wurden geschaffen. Chef der "Verkaufsgemeinschaft Farbstoffe" war der Angeklagte von Schnitzler, der im Jahre 1943 auch Chef der "Verkaufsgemeinschaft Chemikalien" wurde. Der Angeklagte Haefliger war einer seiner drei Stellvertreter. Der Angeklagte Mann war Chef der "Verkaufsgemeinschaft Pharmazeutika".

Stickstoff wurde ausschliesslich durch das Deutsche Stickstoff-Syndikat, G.m.b.H., verkauft, das vom Angeklagten Oster geleitet wurde.

Die meisten der Betriebe und saemtliche Verkaufsgemeinschaften der IG hatten Rechtsabteilungen und saemtliche grosseren Betriebe hatten Patentsabteilungen. Die Arbeit der Abteilungen wurde von zwei Vorstands-Komitees, dem "Rechtsausschuss" und der "Patent-Kommission" gleichgerichtet. Der Angeklagte von Anierien war der Vorsitzende

beider Koerperschaften und stand auch der Rechtsabteilung und der Patentabteilung des Ludwigshafener Betriebs vor, die als Clearing-Stelle fuer alle groesseren Rechts- und Patentfragen von allgemeinerem Interesse fungierten.

Das Vorstehende ist eine Beschreibung des Aufbaus der IG und eine Tatsachenschilderung ihrer Funktionsweise. Die IG war Jahrzehnte lang in der Welt der chemischen Forschung ein Bahnbrecher gewesen. Mit Stolz wies der Verteidiger auf diese bahnbrechenden Leistungen hin: die Entdeckung von "Farbstoffen, die Stickstoffgewinnung aus der Luft, die Methanolsynthese, Kunstfasern, Leichtmetalle, Buna, Kunststoffe, die Kohlen-Raffinerie als Kraftquelle vermittelt Benzin und die Schmierstoff-Synthese, zahlreiche chemotherapeutische Stoffe von grosser Bedeutung." Waehrend jenes Zeitabschnitts hat die IG eine beherrschende Stellung errungen nicht nur in Deutschland, sondern auch in der Welt. Der Angeklagte von Schnitzler nannte die IG in einem Ausdruck, der sie sehr treffend charakterisierte, "einen Staat im Staate." Ueber die bedeutende Stellung der IG in Deutschlands industriellem, kaufmaennischen und politischem Leben kann es keinen Streit geben.

Die Arbeit der IG bei der deutschen Aufruestung.

Die Anklageschrift hat die Taetigkeit der IG in einzelne Kategorien eingeteilt: a) Unterstuetzung Hitlers und der Nazi-partei, b) die Zusammenarbeit mit der Wehrmacht, c) Vierjahresplan und wirtschaftliche Mobilisierung Deutschlands fuer den Krieg, d) Taetigkeit bei der Schaffung und Ausruuestung des militaerischen Apparates der Nazis, e) Beschaffung und Bevorratung knapper Kriegerrohstoffe, f) Taetigkeit im Zusammenhang mit der Schwachung der moeglichen Feinde Deutschlands, g) Verbreitung von Propaganda und Nachrichten- und Spionage-Taetigkeit, h) die Tarnung von auslaendischen IG-Guthaben fuer Kriegszwecke und fuer den Fall des Ausbruchs von Feindseligkeiten, i) die Taetigkeit der IG bei der Uebernahme der Kontrolle ueber die chemischen Industrien in den besetzten Gebieten.

In ihrem ausgezeichneten Vorläufigen Schriftsatz hat die Anklagebehörde die wichtigeren Resultate der Beweisaufnahme unter ähnlichen Überschriften zusammengefasst. Aus praktischen Gründen werden bei der Besprechung der Tätigkeit der IG dieselben grösseren Kategorien verwandt werden. Wie folgenden Tatsachen sind mit einer selbst die Möglichkeit eines Zweifels ausschliessenden Sicherheit durch das reichlich in den Akten vorhandene Beweismaterial erwiesen worden. Erbeutete Schriftstücke, amtliche Berichte, Erklärungen, Affidavits, Vernehmungen, Briefe und die direkten Aussagen vieler Zeugen, sie alle wirken zusammen, um die folgenden Tatsachen bestimmt als wahr nachzuweisen:

a) Unterstützung Hitlers und der Naziartei. In dem kritischen Wahlgang des März 1933 unterstützte die IG Hitler und seine Koalition mit einer Geldzuwendung von 400,000.— Reichsmark, ihren Beitrag zu einem Fonds von mehr als 2,000,000 Reichsmark, der von den, in der Versammlung in Goerings Haus am 20. Februar 1933, vertretenen Industrien aufgebracht wurde. Hitler und Goering richteten Ansprachen an die Versammlung und der Angeklagte von Schnitzler wohnte ihr bei. Die von der IG und den anderen Industriellen zu jener Zeit geleistete Hilfe war unzweifelhaft ein Faktor, der dazu beitrug, dass Hitler die Macht ergreifen und befestigen konnte. Späterhin machte die IG Hitler und der Naziartei noch zahlreiche Geldzuwendungen, die sich ueber den Zeitraum von Jahre 1933 bis zum Jahre 1944 erstreckten und die Gesamtsumme von 40 Millionen Reichsmark erreichten, einschliesslich jener obligatorischen Beiträge, die auf Grund der fuer industrielle Organisationen in der deutschen Wirtschaft festgelegten Sätze erfolgten. Nach dem bei der IG ueblichen Brauch mussten alle Beiträge beim Zentralausschuss gemeldet und von ihm genehmigt werden; der Zentralausschuss berichtete vor dem Jahre 1938 seinerseits an den Arbeitsausschuss des Vorstands und nach 1938 direkt an den Vorstand. Es ist offenbar, dass die IG ein grosszuegiger und regelmässiger Spender fuer eine grosse Anzahl Nazi-Einrichtungen und fuer einige ihrer fuehrenden Persoenlichkeiten war.

b) Zusammenarbeit mit der Wehrmacht. Im Urteil des internationalen Militärgerichtshofes heisst es:

"In den Jahren unmittelbar nach Ernennung Hitlers zum Kanzler schickte sich die Nazi-Regierung an, das wirtschaftliche Leben Deutschlands und ganz besonders die Rüstungsindustrien zu organisieren. Dies geschah in grossen Stil und mit äusserster Gründlichkeit.

Die deutsche Rüstungsindustrie war ein williges Werkzeug der Nazi-Regierung bei dieser Neuorganisation des deutschen Wirtschaftslebens fuer militärische Zwecke und war willens, ihre Rolle im Wiederaufrüstungsprogramm zu spielen."
(IMT 202,203)

Die IG spielte auch eine uebertragende Rolle in der chemischen Forschung und Entwicklung und arbeitete durch Zurverfügungstellung ihrer Prozesse bereitwillig mit dem Nazi-Regime zusammen. In der Beweisaufnahme ist eine ständige Zusammen- und -itarbeit zwischen der IG und der Wehrmacht auf diesen wichtigen Gebieten festgestellt worden. Die IG arbeitete bei der Planung von Reserve- oder staats-eigenen Schattenfabriken mit. Bereits im Jahre 1933 traf die IG Anstalten, um ihre Betriebe gegen Angriffe aus der Luft zu schuetzen und wach-
ren der folgenden Jahre fuehrte sie "Planuebungen" oder "Kriegs-
spiele" durch, um festzustellen, wie wichtigere Betriebe gegen
Bombardierung geschuetzt werden koennten. Chef und Beamte des
Wehrwirtschaftsstabes wohnten im Laere 1936 solchen Uebungen per-
soenlich bei. Ein grosszuegiges Bevorratungsprogramm in Bezug auf
wichtige Kriegsmaterialien wurde von der IG durchgefuehrt. Ein
amtlicher deutscher Regierungsbericht ueber "den Stand der Arbeiten
fuer eine wirtschaftliche Mobilisierung am 30. September 1934" stell-
te fest: "Es war im Juni dieses Jahres moeglich, mit dem Bau
einer Fabrik in Doberitz" zur ausreichenden Bereitstellung von
hochkonzentrierter Salpetersaeure fuer die Herstellung von Spreng-
stoffen und Munition zu beginnen. (Dies war eine Farben-Fabrik
und ihr Bau erforderte ungefaehr 2,7 Millionen Reichsmark). Von
den zur Erzeugung hochwertiger Staehle notwendigen Ferro-legierun-
gen (Ferrochrom, Ferrowolfram, Ferromolybdaen, Ferrovanadium) wur-
de auf Verlangen der Regierung ein Teil der Erzeugung von Ferrowolf-

ren, die bisher ausschliesslich in gefährdeten Gebieten (bei Aachen) erfolgte, durch die IG nach Mitteldeutschland verlagert, sie erstellte "eine erhebliche Reserveanlage", vergrösserte "ihre Betriebsanlagen fuer die Erzeugung von Ferromolybden" und fuehrte die zusehentliche Bevorratung mit Schwefelkies durch, "der ein Ausgangsstoff fuer Schwefelsaeure, einen unentbehrlichen chemischen Zwischenprodukt, ist, der in Deutschland nur in gefährdeten Gebieten hergestellt werden kann." In jenem Bericht, nach dem die Bedeutung des Benzins in folgender Weise gekennzeichnet worden ist,

"Die ausserordentliche Bedeutung der Treibstoffe ergibt sich aus der zunehmenden Motorisierung der Wehrmacht und der zunehmenden und fuer die Zukunft in ihrer Steigerungseigenschaft kaum abschbaren Bedeutung der Luftwaffe und schliesslich aus der immer staerkeren Motorisierung des gesamten zivilen Transportmittelwesens, das durch Treibstoffverknappung schwerste Stockungen erleiden musste."

wird hervorgehoben, dass

"Unter den gesamten zu beruecksichtigenden Rohstoffen zeichnet sich der Treibstoff weiterhin dadurch aus, dass er fuer die Kriegsfuehrung sofort greifbar vorhanden sein muss"

und dass

"Praktisch verwirklicht ist bisher die Steigerung der Produktion von Leuna (ein IG-Betrieb) von bisher 100,000 auf zukuenftig insgesamt 300,000 t."

Im Jahre 1933 hatte sich Deutschland vom Voelkerbund zurueckgezogen, und im Jahre 1935 "beschloss" nach der Feststellung des Internationalen Militaergerichtshofes "die Nazi-Regierung, die ersten oeffentlichen Schritte zu unternehmen, um sich ihren aus dem Versailler Vertrag erwachsenden Verpflichtungen zu entziehen", und am 10. Maerz 1935" verkuendete Goerring, dass Deutschland eine Luftwaffe aufbaue", und sechs Tage spaeter wurde die Militaerdienstpflicht eingefuehrt.

Waehrend diese bedeutenden politischen Ereignisse vor sich gingen, fuhr die IG mit ihrer energischen Arbeit fort. Diese Zusammenarbeit zwischen der IG und der Regierung bei der deutschen Wiederaufruestung wurde so umfangreich, dass die IG in spaeteren Teil

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des Jahres 1935 es fuer noetig befand, in Berlin eine militaerische Verbindungsstelle zu errichten. Der Angeklagte Krauch arbeitete an der Errichtung dieses Amtes; das Vermittlungsstelle W hiess, taetig mit. Sein Zweck war, der I.G. in Verbindung mit der geplanten Entwicklung der Wehrwirtschaft als Buero fuer alle Fragen der Wehrwirtschaft, der Wehrpolitik und fuer alle Fragen, die ueberwiegend technischer Natur waren, zu dienen. Ein von Dr. Ritter, dem Vertreter der Sparte I in der Vermittlungsstelle W ausgearbeiteter Bericht vom 31. Dezember 1935 stellte als Ziel fest: "Der Aufbau einer straffen Organisation fuer die Aufruestung in der I.G., die ohne Schwierigkeit in die bestehende Organisation der I.G. und die einzelnen Betriebe eingebaut werden kann". Die zwischen der I.G. und dem Reichskriegsministerium und Reichswirtschaftsministerium bestehende Grundlage der Zusammenarbeit spiegelt sich in der weiteren im Bericht enthaltenen bedeutsamen Erklaerung wider:

"Im Kriegsfall wird die IG von den mit Ruestungsangelegenheiten befassten Behoerden als ein einziger grosser Betrieb behandelt werden, der in seinen Ruestungsaufgaben, so weit es vom technischen Standpunkt moeglich ist, sich ohne organisatorischen Einfluss von aussen selbst regieren wird".

Jede der drei I.G. Sparten richtete in der Vermittlungsstelle W Bueros ein, und diese Bueros waren den betreffenden Spartenleitern verantwortlich und zwar: Dem Angeklagten Krauch und S c h n e i d e r (nach 1938) fuer Sparte I; dem Angeklagten T e u c h e r fuer Sparte II; und dem Angeklagten G a j o w s k i fuer Sparte III. Spaeterhin, d.h. waehrend der gesamten Periode der Mobilisierung und Vorbereitung auf die deutschen Angriffskriege, fungierte die Vermittlungsstelle W als wichtige Vermittlungsstelle fuer viele grossere, mit der wirtschaftlichen Mobilisierung und Aufruestung zusammenhaengende Fragen. Die Bedeutung des Bueros wird durch die Tatsache, dass es in weitem Umfang eine Verbindungsstelle war,

nicht verringert. Von den militärischen Problemen, mit denen die Vermittlungsstelle V befasst war und die mit der Wehrmacht besprochen wurden, entstanden bis zum Jahre 1939 viele Projekte von der IG selbst im Gegensatz zu Dingen, die auf direkten Brauch der Wehrmacht erfolgt sind. Das Büro behielt beträchtliche Bedeutung bei, trotz der Tatsache, dass einige seiner ursprünglichen Funktionen von Krauch übernommen wurden, als er in das Amt für deutsche Roh- und Werkstoffe berufen wurde, wohin er verschiedene Leute von der IG mitnahm. Man beachte, dass Krauch dem Namen nach an der Spitze der Vermittlungsstelle V verblieb. Unter Krauch richtete die Vermittlungsstelle V eine besondere Sicherheitsabteilung ein und erliess eingehende Anweisungen für den Abwehrdienst, im Einklang mit bestehenden Erlassen und Anweisungen, die die Angelegenheiten der Geheimhaltung betrafen und zwar mit gewissen auf die IG anwendbaren Ausnahmen. In einer Mitteilung an die Direktoren der Farben-Fabriken, darunter verschiedener der Angeklagten, erklärte die Vermittlungsstelle VI "In Hinsicht auf die zukünftige Kriegswirtschaft steht die Abteilung I" (d.h. die innerhalb der Vermittlungsstelle V eingerichtete besondere Sicherheitsabteilung) "allen IG-Betrieben und IG-Stellen für jede Art Auskunft in Bezug auf Abwehr- und Sicherheitsangelegenheiten zur Verfügung und wird, wenn möglich, dafür sorgen, dass die Auskunft ausgetauscht wird".

Bis zum Jahre 1936 befassten sich die Farben-Werke beständig mit den mit der Mobilisierung und der Produktion für den Kriegsfall zusammenhängenden Problemen. Diese Tätigkeit wurde in den Jahren 1937 und 1938 fortgesetzt. Mobilisierungspläne wurden bis in Einzelheiten entworfen, einschliesslich der den verschiedenen Farben-Betrieben und Tochtergesellschaften zuzuteilenden Produktionsaufgaben. Diese Pläne wurden auf Grund umfang-

reicher Besprechungen mit Vertretern des Reichskriegsministeriums, des Reichswirtschaftsministeriums und der Reichschemie gefasst.

Diese Pläne fuer die Mobilisierung innerhalb der IG wurden in den bedeutenden Farben-Komitees, wie dem Technischen Ausschuss und dem Kaufmannischen Ausschuss, besprochen. Sie waren den verantwortlichen "technischen" Mitgliedern des Farben-Vorstandes und den leitenden "kaufmannischen" Mitgliedern des Vorstandes bekannt.

Unmittelbar vor dem Einfall in Polen wurde dem Leverkusener Betrieb der IG von der Wehrwirtschaftsabteilung Dusseldorf durch Geheimschreiben vom 26. August 1939 mitgeteilt, dass das Personal in kriegswichtigen Betrieben auf der Stelle zu verbleiben habe, und es wurden auch Instruktionen "fuer die Dauer der militaerisch Massnahmen" erlassen. Die Vermittlungsstelle V erliess am 28. August 1939 an die IG-Betriebe Bekanntmachungen und Instruktionen, die an allen 24 Stunden des Tages erreicht werden koennte. Der Roehster Betrieb der IG empfing am 30. August 1939 die noetigen Versandpapiere fuer die ersten 14 Tage der Mobilisierung von der Wehrwirtschaftsabteilung Passel.

So vollkommen war die Zusammenarbeit und die Planung der IG, dass allen IG-Betrieben ihre Kriegsproduktionsaufgaben, die wirksam wurden, als Deutschland im September 1939 Polen angriff, schon zugewiesen erhalten hatten. Die Vermittlungsstelle V brauchte das TL-Buero der IG am 3. September 1939 nur davon zu verstaendigen, dass es noetig sei, "... dass sich alle IG-Betriebe sofort auf die im Mobilisierungsprogramm skizzierte Produktion umstellen". Daraufhin benachrichtigte die Vermittlungsstelle V am 6. September 1939 die verschiedenen IG-Betriebe, dass die Kriegslieferungsvertraege, von denen einige im Jahre 1938 abgeschlossen worden waren, sofort wirksam geworden seien.

(c) Der Vierjahresplan und die wirtschaftliche Mobilisierung für den Krieg.

Deutschlands Planung von Massnahmen, die auf die Aufrüstung und den Umbau des wirtschaftlichen Lebens Deutschlands abzielten, geschah im grossen Massstab und mit ausserordentlicher Gründlichkeit. Die folgenden vom D^{III} festgestellten Tatsachen gehören hierher:

"Es erwies sich als notwendig, eine sichere finanzielle Grundlage für die Aufrüstung zu schaffen, und im April 1936 wurde der amoklagte Goerring dazu auserwählt, den Bedarf an Rohstoffen und Devisen in Einklang zu bringen und zu versichern. Jede Betätigung von Staat und Partei auf diesen Gebieten zu überwachen. In dieser Eigenschaft brachte er den Kriegsminister, den Wirtschaftsminister, den Reichsfinanzminister, den Präsidenten der Reichsbank und den preussischen Finanzminister zusammen, zu einer Erörterung der Fragen, die mit der Mobilisierung im Zusammenhang standen und am 27. Mai 1936 widersprach sich Goerring, in einer Ansprache an diese Männer, allen finanziellen Beschränkungen der Kriegserzeugung und fügte hinzu, dass "alle Massnahmen vom Standpunkt einer gesicherten Kriegsführung betrachtet werden müssen". Auf dem Münchener Parteitag 1936 verkündete Hitler die Aufstellung des Vierjahresplanes und die Ernennung Goerrings zum verantwortlichen Generalbevollmächtigten.



Goering war bereits im Begriff, eine starke Luftwaffe aufzubauen und eröffnete am 8. Juli 1938 einer Anzahl führender deutscher Flugzeugfabrikanten, dass die deutsche Luftwaffe der englischen Luftwaffe bereits an Güte und Stärke überlegen sei. Am 14. Oktober 1938 verkündete Goering auf einer anderen Sitzung, dass Hitler ihn angewiesen habe, ein gewaltiges Rüstungsprogramm durchzuführen, das alle vorherigen Leistungen unbedeutend erscheinen lasse. Er sagte, dass ihm befohlen worden sei, so rasch als möglich eine fünfmal so grosse Luftflotte als ursprünglich geplant, zu schaffen, die Geschwindigkeit der Wiederaufrüstung der Marine und des Heeres zu beschleunigen und sich auf die Herstellung von Angriffswaffen, vor allem schwerer Artillerie, und schwerer Tanks, zu konzentrieren. Er legte dann ein bestimmtes Programm für die Erreichung dieser Ziele fest. Der Umfang der erreichten Wiederaufrüstung wurde von Hitler in seinem Memorandum vom 9. Oktober 1938, nach dem polnischen Feldzug, folgendermassen dargelegt:

"Die militärische Auswirkung dieser Volkskraft ist in einem Ausmass vorhanden, dass sie in kurzer Zeit jedenfalls durch keinerlei Anstrengungen wesentlich verbessert werden kann. . . .

Die waffenmassige Rüstung des deutschen Volkes ist für eine grosse Anzahl deutscher Divisionen in einem wesentlich stärkeren Ausmass und in einer besseren Güte vorhanden als etwa im Jahre 1914, die Waffen selbst sind im grossen Durchschnitt so neu, wie dies zur Zeit bei keinem anderen Staat der Welt der Fall ist. Ihre höchste Kriegsverwertbarkeit haben sie in einem erfolgreichen Feldzuge schon bewiesen. . . .

Es liegt kein Anhaltspunkt dafür vor, dass irgend ein Staat der Welt zur Zeit in Betracht einer besseren Munitionierung verfügt als das Deutsche Reich" . . .

Es stand ein ungeheures Planungs- und Vorbereitungsprogramm hinter diesen Leistungen, und der Beitrag der IG an den erzielten Erfolgen war bedeutend. Die Akten zeigen die Verflechtung der I.G. mit diesem Programm in Puelle. Die Versammlung des Sachverständigen-Ausschusses über Rohstofffragen vom 26. Mai 1936 unter dem Vorsitz Goerings, der der Angeklagte S c h m i d t z beizohnte, ist bereits in dieser Urteilsverurteilung abgehandelt worden. In demselben Monat stellte die IG durch Bosch, den damaligen Vorsitzenden des Vorstandes, den Angeklagten Frauch Goering zur Verfügung. Frauch, der einer der fachigsten Wissenschaftler und Verwaltungsfachmänner der IG war, wurde an die Spitze des Sektors Forschung und Entwicklung gestellt. Hervorragende Ingestellte

der Vermittlungsstelle 7 (Dr. Ritter und Dr. Eckell) gingen mit Frauch, um ihn bei der Befüllung der ihm zugewiesenen Aufgaben zu unterstützen. Diese Aufgaben bestanden in der Hilfe bei der Kriegsvorbereitung in Bezug auf die fuer die Kriegsfuehrung wesentlichen Rohstoffe. Hitler hatte bereits im Sommer 1936 Goering mitgeteilt:

"Die deutsche Armee muss innerhalb von vier Jahren zum Kampf bereit sein. Die deutsche Wirtschaft muss innerhalb von vier Jahren fuer den Krieg mobilisiert sein".

Und Hitler sagte Goering fernerhin:

"Die deutsche Munition-Produktion muss jetzt mit der aussersten Geschwindigkeit entwickelt und innerhalb von 18 Monaten zur definitiven Ausfuehrung gebracht werden. Diese Aufgabe muss mit derselben Entschlossenheit wie die Kriegsfuehrung gehandhabt und ausgefuehrt werden. Die Massenproduktion synthetischen Kautschuks muss auch mit derselben Schnelligkeit organisiert und sichergestellt werden. Die Behauptung, dass das Verfahren nicht ganz entschlossen sei und ähnliche Entschuldigungen von da an nicht mehr gehört werden".

Dem Amt fuer Rohstoffe und Devisen folgte schnell das Amt des Vierjahresplanes und zwar in Gefolge der Verkundigung dieses Planes durch Hitler auf dem Muenchener Parteitag im Jahre 1936. Frauch verblieb unter Goering im Vierjahresplan; ihm unterstand die Vergrößerung der Anlagen fuer kriegsrichtige Rohstoffe und Kunststoffe. In einer Rede vor der Reichsarbeiterkammer am 24. November 1936 beschrieb General Thomas, der Chef des Wehrwirtschaftsstabes des Amtes der Wehrmacht, den Vierjahresplan als "Wehrwirtschaft reinsten Wassers". Frauch stellte die Hauptverbindung der IG mit der allgemeinen Planung der deutschen Ruestung dar, aber auch andere Angeklagte waren in ihrem betreffenden Wirkungsbereich ausserst taetig. Am 6. und 7. August 1936 wohnte der Angeklagte Baetfisch einer Besprechung des regierungsseitigen Benzinprogramms in Berlin bei und zwar mit Mitgliedern des Rohstoffstabes, in dem das regierungsseitige Benzin-Programm unter dem Vierjahresplan eingeordnet wurde.

Die in dem Ueberblick beschriebenen Projekte wurden von Krauch, insbesondere soweit sie innerhalb des Gebietes der IG lagen, nachgeprüft, und Krauch besprach die Planung auf diesen Sondergebieten mit der IG.

Die Bedeutung des Vierjahresplan wurde von Krauch in einer von ihm gehaltenen und im Vierjahresplan im August 1937 veröffentlichten Rede auseinandergesetzt.

Er sagte:

"Das deutsche Volk ist gezwungen, in einem viel zu beschränkten Raum zu leben. Der Ausschluss von den Rohstoffquellen der Welt zwingt uns, für die nationale Sicherheit notwendigen Stoffe auf chemischen Wege aus unseren eigenen Hilfsquellen zu erzeugen - aus Kohle, Salz, Kalk und anderen Stoffen, wie auch aus der Luft und dem Wasser. Das ist der Zweck des Vierjahresplanes, wie er von dem Führer mit den Worten beschrieben worden ist: "Ich lege dies heute als das neue Vierjahresprogramm vor. In vier Jahren muss Deutschland in bezug auf alle diese ausländischen Materialien, die deutsches Geschick nur irgendwie durch unsere chemische und Maschinenindustrie und durch unseren Bergbau herstellen kann, vollkommen unabhängig sein."

"Der von der nationalsozialistischen Führung erzielte wirtschaftliche Fortschritt und die Aufrüstung haben alles, was auf dem Gebiete der technischen und chemischen Ausbildung aufgezehrt.....

"Die folgenden Massnahmen scheinen wichtig:

" I.) Die Aufklärung der öffentlichen Meinung ueber die Bedeutung der Wissenschaft und des Maschinenbaues fuer unser Volk und insbesondere ueber die folgenden Punkte:

1.) Die Ausnutzung wertvoller wissenschaftlicher und technischer Leistungen ist fuer die Erreichung unseres politischen Zieles unentbehrlich....."

Es kann kein Zweifel über Trauchs Sympathien mit den politischen Zielen und Absichten der nationalsozialistischen Führung bestehen, und sein hervorragender Ruf als Industriewissenschaftler brachte es mit sich, dass er den ungeheuren Beitrag, den die I.G. bei der Erzielung der deutschen Unabhängigkeit in den für die Kriegsführung wichtigen Rohmaterialien leisten konnte, vollig verstand und würdigte.

Zur Erklärung der militärischen Bedeutsamkeit chemischer Produkte, darunter auch die der I.G., sagte Dr. E l l e s , ein von den Angeklagtenbehörde beigebrachter Zeuge, das folgende aus :

"Die deutsche chemische Industrie baute sich auf Kohle, Luft und Wasser auf. Die Petroleumvorräte in Deutschland waren sehr geringfügig. Die Wertschöpfung an Petroleum in ganz Deutschland aus den eigenen Bohrungen hat immer nur einen kleinen Bruchteil des Gesamtbeitrages dargestellt. Kohle dagegen ist reichlich vorhanden und Braunkohle, die eine Art Lignite ist, ist in gewaltigen Mengen vorhanden und eignet sich leicht zum Abbau in Grossen. Mit Kohle als Grundstoff und mit Hilfe von Luft und Wasser liess eine unbegrenzte Zahl organischer Verbindungen aus Kohlestoff, Stickstoff, Wasserstoff und Sauerstoff hergestellt werden. 84½ % des deutschen Flugzeugtreibstoffes, 85% seines Motorenbenzins, sein gesamter Bedarf an 'Autschuk' bis auf 1 %, 100% seiner konzentrierten Salpetersäure, des Grundbestandteils aller Sprengstoffe, und 99% seines gleichrichtigen Methanols wurden aus diesen drei Grundstoffen, Kohle, Luft und Wasser synthetisch hergestellt.

* * * * *

"Die militärische Bedeutung des Oeles wird am besten durch die Tatsache beleuchtet, dass in den Schlussmonaten des Krieges, nachdem die britische und amerikanische Luftwaffe sich auf deutsche Oelziele konzentriert hatte, die grossen deutschen Reserven an Militärflugzeugen mit leeren Tanks am Boden bleiben mussten, dass Panzerwagen mit Oel aus an die Front gebracht wurden und jede über 60 Meilen hinausgehende Fahrt vom befehlshabenden General genehmigt werden musste. Ohne StB-Stoff hätte nicht eine einzige Bombe Militärsprengstoff oder Antriebsmischer gemacht werden können. Grosse militärische Sprengstoffe hingen vollkommen von synthetischem Methanol wie auch von Ammoniak ab. Ohne Kautschuk

Es wurde von Fischer, dem Leiter der Wirtschaftsgruppe Motortreibstoffe, auseinandergesetzt, dass "der Gesamtplan nicht darauf eingestellt ist, Friedensbedürfnisse zu befriedigen, sondern auf die Erfordernisse im Falle der Mobilisierung abgestellt ist". Quotefisch erklärte, da sei eine zweite Phase der Entwicklung geplant, in Bezug auf die 9 Tage später Information erteilt worden wurde, wobei "eine Gesamtzeit von 24 Monaten fuer Bauarbeit vorgesehen sei". Ein paar Tage später, am 12. Oktober 1936, besuchten die Angehörigen Joehne und Latenschlagger eine Versammlung der Technischen Leitung, Frankfurt-Main-Hochst, in der der dringende Bedarf der IG fuer die Erzeugung von Benzin, Gummi, und kunstlichen Fasern unter dem Vierjahresplan besprochen wurde. Eine Erhöhung der Produktion kunstlicher Fasern auf 85,000 Tonnen pro Jahr zur Ende

des Jahres wurde festgestellt, ebenso wie ein "bedeutsamer Anstieg" in der "Herstellung von Metallen." Am 17. Oktober 1936 berichtete der Angeklagte Schmitz dem Aufsichtsrat der IG ueber "die grossen Aufgaben, die unsere Firma in Bezug auf Rohstoffe von dem vom Fuehrer in Nuernberg verkundeten Vierjahresplan gestellt bekommen hat." Nur zum Zwecke chronologischer Vortrages und aus logischen Gruenden wird hier auf den von Goering am 17. Dezember 1936 vor einer Gruppe von etwa hundert Industriellen gehaltenen Vortrag hingewiesen. Seine Bedeutung bezueglich der Kenntnisse verschiedener der Angeklagten, darunter Krauch und von Schnitzler, ist bereits in dieser Urteilsbegrueundung erortert worden.

Das Jahr 1937 war im Ausweitungsprogramm der IG zwecks Erfuellung der Forderungen des Vierjahresplanes eine bedeutsame Periode. Ein ungeheueres Kapital wurde angelegt; einiges davon wurde von der IG beigesteuert, viel aber auch von der Regierung gestellt. Auf den 6. Januar 1937 wurde von Krauchs Amt fuer Roh- und Kunststoffe eine Konferenz mit Vertretern des Amtes des Reichsministeriums, des Reichsluftfahrtministeriums und der Marine zwecks Besprechung einer grossen Reihe von Gegenstaenden angesetzt. Diese Gegenstaende umschlossen: 1.) die fuer die Herstellung von Pulver und Sprengstoffen zu errichtenden Betriebe und die Bevorratung dieser Stoffe. 2.) die fuer die Erzeugung von chemischen Kampfstoffen zu errichtenden Betriebe und die Bevorratung dieser Erzeugnisse; 3.) Beschluss ueber die Reserve-Fabrikationsstaetten fuer Kalziumhypochlorit oder Losantin und Bevorratung dieses Erzeugnisses; 4.) Bevorratungsplan fuer viele wichtige Gegenstaende, darunter Vorprodukt- und organische Grundstoffe wie z.B. Nitratpapier Diglykol, zur Deckung des Bedarfs fuer ein Jahr; 5.) Lagerplaetze fuer die Vorraeete an Diglykol, Ammoniak und andere fuer die Herstellung von Sprengstoffen wichtige chemische Produkte, darunter Thiodiglykol und Dichlordiathyleulfid. Im Maerz 1937 sagte Hitler in einer Rede ueber den Vierjahresplan: "In zwei oder drei Jahren werden wir in Treibstoff und Kautschuk von Auslandsieferungen unabhaengig sein". Am 27. Mai 1937 billigte Goering "den Plan des Vierjahresplans fuer diese Projekte, die vom Amt fuer deutsche Roh- und Kunststoffe ausgefuehrt werden", der eine umfassende Uebersicht ueber die mit weitgehenden Einzelheiten belegten Produktionsplaene, darunter auch von Chemikalien, waehrend des vierjaehrigen Zeitraums enthielt.

haette die Kriegsmaschine natuerlich nicht rollen koennen.

"Das Element, das der Synthese fluessiger Treibstoffe, Ammoniaks (aus dem Salpetersaure gemacht wird) und des Methanols gemeinsam ist, ist der Wasserstoff. Reiner Wasserstoff wird gebraucht, um den Stickstoff der Luft zu binden; er wird gebraucht, um den Kohlentee oder die Kohle zu fluessigen Brennstoffen zu reduzieren, und er wird gebraucht, um das aus der Kohle hergestellte Kohlenmonoxyd zu Methanol zu reduzieren. Er wird auch in gewissen Stufen bei der Herstellung von Butadien zwecks Fabrikation synthetischen Kautschuks gebraucht. Aus diesem Grunde wurden verschiedene Produkte aus Wasserstoff in derselben Einheit in den verschiedenen I.G.-Betrieben hergestellt. In Betrieben wie Leuna wird nicht nur Ammoniak produziert, sondern auch Benzol, Schmieroel, Methanol und andere Produkte. In Ludwigshafen finden wir synthetischen Ammoniak, Methanol, organische Zwischenprodukte und synthetischen Kautschuk, in Waldenburg und Heydebreck Ammoniak und Methanol und Acetylen. In anderen Worten, es wurde fuer wirtschaftlicher gefunden, mehrere Wasserstoff verbrauchende Operationen um die zentrale Wasserstoffproduktion herum zu bauen, sodass, wenn der Verbrauch fuer irgend eines der Endprodukte schwankte, die Wasserstoffherzeugung auf eines der anderen Produkte umgestellt und so in Gang erhalten werden konnte.

"Ich habe nun miteingeweiht die Quellen des kuennstlichen und des als Nebenprodukt anfallenden Ammoniaks, des synthetischen Methanols, der synthetischen fluessigen Brennstoffe, des kuennstlichen Kautschuks, des Acetylens, Acetylens, Benzols und Toluens angegeben. Die tatsaechliche Struktur wichtiger Zwischenstoffe und Fertigprodukte ist auf diesem Skelett von Rohstoffen aufgebaut, sodass die I.G., von Kohle, Luft und Wasser ausgehend, Deutschland mit dem gressten Teil seiner fluessigen Brennstoffe und Schmierstoffe, nahezu seinem gesamten Kautschuk, seinem gesamten Methanol, dem gressten Teil seines Ammoniaks, und damit seiner Schwefelsaure und seinen Rohstoffen fuer die Herstellung von Farbstoffen, Pharmazeutiken, Sprengstoffen und Giftgasen, versorgen konnte."

In einem Brief an Goering vom 15. Juni 1937 sagte der Angeklagte ter Meer nach einem Hinweis auf den mit dem Reich ueber die Errichtung einer gressten Dunafabrik in Schkopau abgeschlossenen Vortrag folgendes:

"Wir sind auch gewillt, je fuer die Dauer von 10 Jahren, mit weiteren innerhalb des Vierjahresplanes zu errichtenden Dunafabriken Lizenzvertraege zu unterzeichnen,....."

"Dieses Einverstaendnis, unsere Patente und Erfahrungen unter Verzicht auf Gewinn den erwachten Fabriken zur Verfuegung zu stellen, laesst sich nur unter dem Gesichtspunkt des Vierjahresplanes rechtfertigen....."

In diesem Plan der wirtschaftlichen Mobilisierung auf dem Gebiete der Chemie, ausschliesslich von Mineraloelen, wurde der I.G. ein gresserer Anteil zugewiesen. Im Mineraloelsektor, einschliesslich der reichseigenen, aber von der I.G. oder ihren Lizenznehmern betriebenen Fabriken, betrug die Zuteilung 80%; fuer synthetischen Kautschuk war

die Zuteilung 100%; fuer Sprengstoffvorprodukte und chemische Kampfstoffe 100%; fuer wichtige Vorprodukte, wie Diglykol und Thiodiglykol war sie 100%; fuer Methanol, Ammoniak (Stickstoff) 100%. Eine Gliederung des Planes ergab, dass von den unter dem Vierjahresplan zu machenden Investitionen 91,5% fuer die chemische Produktion bestimmt waren, wobei sich der Anteil der I.G.-Produkte auf 72,7% belief und dass von der fuer die gesamte deutsche Industrie im Vierjahresplan anzulegenden Gesamtsumme 66,5% fuer Projekte zur Herstellung von I.G.-Produkten gewandt werden sollten.

Während der Jahre 1936/1937 verlor Schacht nach und nach seinen Einfluss und seine bedeutende Stellung in der deutschen Wirtschaft. Wie vom I.T. festgestellt, lehnte Schacht das stark erweiterte Programm der Erzeugung synthetischer Rohstoffe ab, ebenso wie die Verkürzung des Vierjahresplanes mit der Aufgabe innerhalb von 4 Jahren "die gesamte Wirtschaft in einen Zustand der Kriegsbereitschaft" zu versetzen und ausserdem die Ernennung Goering zu seinem Chef. Das I.T. stellte fest: "Es ist klar, dass Hitlers Vorgehen eine Entscheidung darüber enthielt, dass Schachts Wirtschaftspolitik fuer die drastische Aufrüstungspolitik, die Hitler ins Werk setzen wollte, zu konservativ sei." Schachts Meinungsverschiedenheit mit Goering ueber die zu verfolgende Politik fuehrte zu seiner "schliesslichen Entlassung aus allen Machtsstellungen von wirtschaftlicher Bedeutung in Deutschland." Schacht behauptete gemäss I.T., "dass, als er entdeckte, dass die Nazis sich fuer Angriffszwecke ruesteten, er versuchte, das Ruistungstempo zu verlangsamen und dass. . . er im Flachen, Hitler erst durch Bestechung und spaeter durch Ermordung los zu werden, teilnahm.... Waere die von ihm vertretene Politik in die Wirklichkeit umgesetzt worden, dann waere Deutschland auf einen europaeischen Krieg nicht vorbereitet gewesen. Sein Bestehen auf seine Politik fuehrte zu seiner schliesslichen Entlassung aus allen Stellungen von wirtschaftlicher Bedeutung in Deutschland."

Während die Taetigkeit Schachts abnahm, stieg die der Angeklagten Krauch und der I.G. an. Während der Jahre 1938-39 kann ihre Inten-

sität kaum uebertrieben werden. Während dieses Zeitraumes fand, nach der Feststellung des IMT, im März 1938 der Einfall in Oesterreich statt, der von dem IMT als "verbodachte Angriffshandlung zur Foerderung des Planes, gegen andere Laender Angriffskriege zu fuehren," charakterisiert wurde.

Innerhalb eines Monats nach dem Einfall in Oesterreich arbeitete Krauch's Amt einen Bericht aus, betitelt "Sicherstellung der Mobilisierungserfordernisse durch Bevorratung", wovon Krauch persönlich ein Exemplar erhielt. U.a. schloss der Bericht ein:

- A. Zusätzliche Bevorratung zur Sicherstellung des 1. Mobilisierungsjahres, unter Beruecksichtigung der bereits vorhandenen Vorräte.
- B. Zusätzliche Bevorratung zur Sicherstellung des 2. Mobilisierungsjahres. (Die an Hand befindlichen Vorräte sind bereits im 1. Mobilisierungsjahr verbraucht worden; evtl. Erhöhung der einheimischen Erzeugung ist beruecksichtigt worden)."

Unter Hinweis auf den Einfall in Oesterreich hiess es:

- "Die zusätzlichen Mobilisierungsbeduerfnisse infolge des Anschlusses von Oesterreich sind nicht besonders beruecksichtigt worden.....
- "Die Auswirkungen auf die heimische Produktion wegen des Anschlusses des oesterreichischen Wirtschaftsgebietes sind in Verbindung mit den Erzeugungen beruecksichtigt worden."

In Bezug auf Kautschuk hiess es:

- "5. Kautschuk. Hier ist die letzte Mobilisierungsanforderung von 65 000 to pro Jahr beruecksichtigt worden. Die Anforderung von ungefuehr 102 000 to pro Jahr, die jaenget erachtet wurde, ist jetzt aufgegeben worden. Von 2. Mobilisierungsjahr an, von heute ab gerechnet, wird die Produktion von Buna sehr stark in Erscheinung treten....."

Bis zum Sommer 1938, und zwar im Anschluss an den Einmarsch in Oesterreich und waehrend der Periode der "Krisen" vor dem Muenchener Pakt, herrschte in Deutschland ueber die Moeglichkeit des Krieges betruechtliche Beunruhigung. Bosch von der I.G. versuchte, bei Goering ein Interview zu bekommen, um ihn davon abzubringen, konnte aber kein solches Interview bekommen. Krauch sagte bei einer Vernehmung aus, dass im Juni 1938:

- ".....Dr. Bosch mich in Berlin fragte, ob er Goering sprechen koennte. Er sagte mir, man spreche allgemein vom Krieg. Wenn wir Krieg anfangen, ist Deutschland verloren..."

Krauch sagte weiter:

".....Ich sagte Koerner, dass ich jetzt von den Zahlen, die der Regierung ueber den Aufbau der Produktion im Vierjahresplan gegeben wurden, Kenntnis habe. Die Zahlen ueber die Produktion von Benzin, Gummi, Kunststoffen usw., die zeigen, was wir im Jahr 1938/39 tun werden. Ich weiss, dass diese Zahlen falsch sind. Ich sprach vor einer Woche mit Major Loch ueber diese Zahlen und ich sagte, es bestuende eine grosse Gefahr, wenn jetzt der Regierung falsche Zahlen gegeben wurden. Es mag moeglich sein, wenn ein ausschlaggebender Mann von diesen falschen Zahlen weiss und an den Krieg denkt, er sich dagegen entscheiden wurde. Wenn er weiss, wir sind im Krieg nicht unabhangig, wurde er sich gegen den Krieg entscheiden. Das ist eine grosse Gefahr in der Frage der falschen Zahlen. Dann erzhlte Koerner dies Goering, Goering sagte zu mir am naechsten Tage: 'Sie haben andere Zahlen angegeben, als die wir in Braunkohlen haben.' Ich erzhlte ihm, was ich Koerner gesagt hatte, dass es eine grosse Gefahr sei, falsche Zahlen herauszugeben, und ich koennte die Produktion aller Fabriken der I.G. ganz genau. Die Produktion ist nicht so hoch, wie die Vierjahresplan-Koerner es Goering gegenaueber angegeben hatten.....

"Goering sagte: 'Ich will mit Heit-1 ueber die Zahlen sprechen und am naechsten Tag werden die Huerueberkormen massen. Wir werden uns wieder unterhalten.' Am naechsten Tag sagte er: 'Ich habe mit Heit-1 gesprochen, er sagt, dass unsere Zahlen richtig sind. Viel Arbeit ist beim Aufbau der Fabriken geleistet worden.' Er sagte, er habe die Produktion von Sprengstoffen fuer 2 Jahre so hoch angesetzt, und nun, da sie die Produktion so hoch hatten, sage ich zu Goering, die Zahlen seien falsch. Ich koennte die Produktion von Stickstoff und anderen Rohstoffen fuer die Fabriken, die die Sprengstoffe herstellen. Und ich kann sagen, sie koennen nur so und soviel Sprengstoffe herstellen. Und dann sagte Goering zu mir: 'Nun, ich habe Vertrauen in Ihre Zahlen.' Dann muessete ich vielleicht 3 oder 4 Tage spaeter zu Goering kommen und er sagte zu mir: 'Nun, Sie werden eine Uebersicht der Produktion fuer die Zukunft machen muessen. Wenn ich was ueber die Zahlen wissen will, werde ich mich an Sie wenden. Damit Sie die Zahlen von der Industrie oder vom OKW bekommen koennen, ernenne ich Sie zum Generalbevollmaechtigten fuer die Chemische Industrie.'"

Ein andermal, bei einer Vernehmung, sagte der Angeklagte Krauch:

~~Er sagte:~~

"F: Was fuer Schritte wurden zu jener Zeit von der IG unternommen, zuehnlich denjenigen, die Dr. Bosch im Juni 1938 zu unternehmen versuchte, als er Goering zu sprechen versuchte, um die Nazis von Krieg abzuhalten?"

A: Ich habe diese Frage schon vorher beantwortet, wir taten offiziell nichts, aber inoffiziell sprachen verschiedene Leute von der IG mit verschiedenen Leuten von der Regierung. Ich sprach jeden Monat und sagte, dies sei etwas Unmoegliches....."

Es befindet sich im Beweismaterial ein vom 27. Juni 1938 datierter ausfuhrlicher Bericht ueber das "Programm der Herstellung chemischer Kampfstoffe und Sprengstoffe in Deutschland" mit dem besonderen Hinweis auf die von der IG auf ein Ersuchen von Seiten Krauchs erreichte Produktion. Krauch legte am 30. Juni 1938 Goering einen "beschleunigten Plan fuer Sprengstoffe, Pulver, Zwischenstoffe und chemische Kampfstoffe" vor. Dieser Plan wurde von Goering angenommen, wurde aber bald von einem von Krauch aufgestellten Plan, der das Datum des 12. Juli 1938 traegt, und wehrwirtschaftlicher Neuer Produktionsplan, auch Krauch-Plan oder Karinhall-Plan genannt wurde, ersetzt, und zwar gemass dem fuer den neuen Produktionsplan "von Generalfeldmarschall am 30.6.1938 in Karinhall aufgestellten" Plan. Dieser Plan umfasste Mineraloel, Kautschuk (Buna) und Leichtmetalle, ausserdem Schiesspulver, Sprengstoffe und chemische Kampfstoffe. Die aeusserste Beschleunigung der Bau- und Produktionsvorhaben, und zwar im Anschluss an bestimmte Mobilisierungsziele, war in diesen Plannen vorgesehen. Auf einer Besprechung zwischen Goering und dem OKW in Karinhall am 18. Juli 1938 sagte Goering, die Funktion des Vierjahresplanes bestuende darin, die deutsche Wirtschaft in 4 Jahren auf den totalen Krieg vorzubereiten; er sagte auch: "Im X-Fall und waehrend des Krieges wird der VJF mit besonderem Nachdruck auf den fuer den Kriegseinsatz wichtigen Projekten (Produktion von Buna, Erzen, Brennstoffen usw.) fortgesetzt werden."

Ein Dokument, das dasselbe Datum traegt, naemlich den 18.7.1938, betitelt "Massnahmen in Uebereinstimmung mit dem Befehl vom 15. Juli 38 bezueglich der Ausfuhrung des neuen wehrwirtschaftlichen Produktionsplanes", zaehlt 9 verschiedene, den Fabriken der IG fuer die Erzeugung chemischer Kampfstoffe und Diglykol gegebene Auftraege auf.

Am 22. Juli 1938 schrieb der Angeklagte Krauch an den Staatssekretaeer Koerner einen Brief, in dem er hervorhob, dass die Industrie bereit sei, auf dem Gebiete der Aufruestung groessere Verantwortung zu uebernehmen. In jenem Brief sagte Krauch:

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" die verfahrensmässige Entwicklung und Schaffung dieser Stoffe (Zwischenprodukte fuer Pulver und Sprengstoffe) liegt jedoch bei der Industrie ... Die Duergestickstoffbasis ist gleichzeitig durch ihren Exportrückgang im Mcbfall des Rückgrat der gesamten Salpetersäure und des Ammonsalpeters.... Das gleiche gilt besonders stark fuer die gesamte Äthylchemie, die mit dem Diglykol fuer Pulver, und den Kampfstoffen unlosbar mit den gesamten Anlagen der Kokeräen und Mineralcalsynthesen verknuepft ist. ist auf meine Veranlassung hin die Wehrmacht bereits Ende des Jahres 1936 wiederholt auf die dringende Notwendigkeit der Bevorratung hingewiesen worden. Schon damals wurde z.B. von mir verlangt, dass wesentliche Teilmengen fuer die vorhandenen Sprengstofffabriken eingelagert werden sollten.....

" Die beteiligten Firmen sind mit Freuden bereit, die Verantwortung fuer die schnellstmögliche Ausfuhrung zu uebernehmen..... Die Industrie hat sich bereits verbindlich bereit erklart, ihre besten Kraefte fuer die Durchfuhrung der ihr von mir gestellten Aufgaben einzusetzen..... sind die Erzeugung von Pulver, Sprengstoffen und Kampfstoffen chemische Verfahren. Sie sind deshalb nicht losgelöst von der uebrigen chemischen Industrie zu bearbeiten. Es ist selbstverstaendlich, dass mein Vorgehen in engster Fuehlungnahme mit dem HWA (Heereswaffenamt) erfolgt." (Unterstreichungen hinzugefuegt).

Daraufhin arbeitete Krauch am 13. August 1938 den sogenannten "Schnellplan" aus und legte im Einvernehmen mit der Leitung des Heereswaffenamtes (General Becker) und dem Amt fuer Wehrwirtschaft (General Thomas) die Grundlage fuer dessen beschleunigte Durchfuhrung.

Nachdem Goering am 22. August 1938 Krauch zum Generalbevollmaechtigten fuer Sonderaufgaben der chemischen Produktion im Vierjahresplan ernannt hatte, wurde die Oberaufsicht ueber den Schnellplan Krauch anvertraut. In einem Schriftstueck vom 22. August 1938, betitelt "Verfuegung bezueglich der Ausfuhrung des neuen Wehrwirtschaftlichen Produktionsplans und des Schnellplans" heisst es:

" 1. Die Ausfuhrung des wehrwirtschaftlichen neuen Produktionsplanes und des Schnellplanes fuer die Erweiterung der Fabriken, die Pulver, Sprengstoffe und K-Stoffe und ihre Grundstoffe erzeugen, liegt vollkommen in den Haenden von Dr. Krauch. Er ist deshalb fuer die Ausfuhrung des Programmes innerhalb der gesetzten Frist und fuer die Beschaffung der dabei benoetigten Mittel (Gold, Stahl, Baumaterialien, Arbeitskraefte usw.) voll verantwortlich.

" 2.

"a) Programm und Planung: Dr. Krauch.

" Bei der Aufstellung des Programmes und der Planung

sollen die militärischen Gesichtspunkte, fuer die die Wehrmacht verantwortlich ist, als Grundlage dienen und die von ihr gestellten chemischen und technischen Anforderungen sollen in grösstem Masse beruecksichtigt werden.

.....

3. Um die engste Zusammenarbeit zwischen Dr. Krauch und dem CKH (WaA) sicherzustellen, sind die folgenden Massnahmen durchzufuehren:

a) Schaffung eines Bureaus durch Dr. Krauch, zu dem das CKH (Wa A) einen dauernden Vertreter entsendet.

b) Bestellung eines staendigen Vertreters Dr. Krauchs bei dem CKH (Wa A)

c) Bestellung von Kontrollpersonen durch Dr. Krauch (hervorragende Spezialisten) die zusammen mit Dr. Krauch auch dem CKH (Wa A) fuer Kontrollzwecke zur Verfuegung stehen."

Leitende I.G. Beamte wurden haeufig von Dr. Krauch als Ratgeber bei der Ausfuehrung von Projekten des Vierjahresplanes herangezogen. Die I.G. und ihre Tochtergesellschaften unterstuetzten die Ausfuehrung des Planes, und ein grosser Prozentsatz der Gesamtausgaben des Planes wurde fuer I.G.-Projekte bereitgestellt.

Die Fabrik-Investitionen der I.G. stiegen infolge des Vierjahresplanes schnell an. In Ausfuehrung des "neuen wehrwirtschaftlichen Planes" wurden an die I.G. direkte Anweisungen und Auftraege auf Erhoehung der Produktionsanlagen fuer chemische Kampfstoffe und Diglykol, ein wichtiger Zwischenstoff fuer die Sprengstoffherstellung, gegeben.

Krauch blieb waehrend dieser ganzen Periode der intensiven Ruestungsbeschleunigung im Vierjahresplan.

Nach einem Hinweis auf eine Uebersicht ueber das Erreichte im August 1939, kurz vor Ausbruch des Krieges, auf dem Gebiete der Mineraloel, Buna, der Chemie, der Leichtmetalle und des "Schnellplanes" fuer Pulver, Sprengstoffe und chemische Kampfstoffe, u.zw. mit besonderem Nachdruck auf den Kriegsfall, schlug Krauch nach Ausbruch des Krieges weitere Plaene fuer die Produktionssteigerung im September 1939 vor.

Krauch wohnte während des Krieges Versammlungen des Generalrats des Vierjahresplanes bei, wo er bei der Planung und der Versorgung der kämpfenden Truppe mit Munition und Kriegsmaterial eine beherrschende Stellung einnahm. Er blieb während des ganzen Krieges in dieser Stellung. Krauch blieb bis 1940 Mitglied des I.G.-Verstandes, obwohl seine Arbeit am Vierjahresplan ihn oft am Besuch der Sitzungen hinderte. In jenem Jahr wurde er zum Vorsitzenden des Aufsichtsrats der I.G. befördert.

d) Die Schaffung und Ausrüstung des Nazi-Militärapparates.

Die Arbeit der Angeklagten in Bezug auf die Fertigung lebenswichtiger chemischer Kriegserzeugnisse, mit der I.G. als Werkzeug, schliesst ein:

Sprengstoffe:

Auf dem Sprengstoffgebiet hatte die I.G. grosse Verantwortungen, ausserdem entwickelte sie eine kolossale Taetigkeit in diesem Sektor.

Eine grosse, planmaessige Ausdehnung der Taetigkeit auf dem Gebiet der Sprengstoffe fuer militaerzwecke wurde 1934 angefangen. Im allgemeinen errichtete eine reichseigene Gesellschaft, die Montanwerke, die Fabriken und verpachtete sie an private Sprengstofffabriken, die hauptsaechlich Tochtergesellschaften der I.G. waren, fuer die eigentliche Herstellung der Sprengstoffe. Grosse Reserven von Sprengstoffen, insgesamt ungefaehr 187 000 Tonnen, waren 1939 auf Lager. Der Sprengstoffverbrauch der deutschen Streitkraefte betrug 1940 durchschnittlich 3000 Tonnen pro Monat und 1941 durchschnittlich 5000 Tonnen pro Monat. Deutschland war fast vollkommen von der I.G. fuer die Rohmaterialien und Zwischenprodukte, die fuer die Herstellung von Explosivstoffen und Schiesspulver notwendig sind, abhaengig. Eine statistische Tafel aus den Akten des Reichsaemtes fuer lehrwirtschaftliche Planung, bezeichnet "Ineinandergreifen der Rohmaterialien fuer die Herstellung von Schiesspulver, Sprengstoffen und Ausgangsprodukten" befindet sich unter den Beweisstukken. Betreffs dieser Tafel sagte der Angeklagte Ambros aus: "Die Darstellung ist vom chemischen Standpunkt aus richtig". Die Tafel zeigt, dass diejenigen Rohmaterialien und Zwischenprodukte, die fuer die Herstellung von Sprengstoffen, Schiesspulver und Gaskampfstoffen notwendig sind, hauptsaechlich von der I.G. hergestellt worden sind.

Die Fabrikationsleistung, die in dieser Tafel angezeichnet war, wurde durch die Entwicklung des Haber-Bosch Verfahrens waehrend des ersten Weltkrieges fuer die Herstellung von kuenstlichen Stickstoff durch die Farbenwerke ermöglicht. Als Resultat dieser Entwicklung versetzten die Farbenwerke Deutschland in die Lage Sprengstoffe herzustellen, ohne auf die Einfuehren von Stickstoff aus Chile abhaengig zu sein.

Die I.G. plante Produktionsmoeglichkeiten fuer Salpetersaeure ausschliesslich fuer die Wehrmacht fuer den Fall eines Krieges; die I.G. legte Reserven von Pyriten, der Grundstoff fuer Schwefelsaeure, die fuer die Herstellung von Nitraten notwendig ist, an; die I.G. erhoehte Deutschlands Produktionskapazitaet fuer Salpetersaeure um das vielfache vor Ausbruch des Krieges in 1939.

Die I.G. stellte das ganze deutsche Diglykol, ein Zwischenprodukt in der Herstellung von Schiesspulver, her. Es wurde als ein Ersatzstoff fuer Nitroglycerin verwendet. Mitte 1937 hatte die I.G. Plaene fuer eine enorme Erweiterung der Diglykolherstellung in Wolfen, deren gesamte Produktion an die Sprengstofffabrikanten Dynamit A.G. und Wessag ging, entwickelt. Einen Bericht des Heereswaffenamtes vom 9. Februar 1939 zufolge war die derzeitige Diglykolproduktionskapazitaet der I.G. Farbenwerke in Ludwigshafen, Wolfen, Schkopau, Huls und Trostberg ausreichend, um 50 000 Tonnen Schiesspulver pro Monat herzustellen.

844

Methanol, ein wichtiges Produkt in der Herstellung der wirksamsten Sprengstoffe hinter Hexogen und Nitropenta, steht nur/dem Nitroglycerin an Bedeutung zurueck. Farben stellte das gesamte Methanol in Deutschland her. Der Bericht des Heereswaffenamtes vom Februar 1939 zeigt, dass die I.G. zu dieser Zeit zusätzliche Fabrikationsanlagen fuer die Herstellung von Hexogen plante. Bereits in 1935 entwickelte die I.G. das Hexogen und errichtete eine Versuchsfabrik, um Erfahrungen in seiner Herstellung zu gewinnen. Dieses wurde in Zusammenarbeit mit der Dynamit A.G. und dem Heereswaffenamt unternommen. Hexogen hat in Friedenszeiten keine beträchtliche Verwendung.

Die I.G. stellte sämtliche Stabilisatoren in Deutschland her. Diese Stoffe sind notwendig um eine vorzeitige Explosion des Schießpulvers zu verhindern. Die Errichtung von Reservefabriken fuer die Herstellung von Stabilisatoren wurde bereits 1935 von der I.G. in Zusammenarbeit mit der Heereswaffenabteilung der Wehrmacht geplant. Die Produktion, die bereits zu diesem fruhen Zeitpunkt in Aussicht genommen wurde, ist als genuegend um die Herstellung von 11 875 Tonnen Schießpulver pro Monat aufrecht zu halten, geschätzt worden.

Eine Menge widerspruechlicher Beweise sind erbracht worden, ob die I.G. und ihre Tochtergesellschaften den groessten Teil der von der deutschen Wehrmacht verwendeten hochwertigen Sprengstoffe und Schießpulver herstellten, oder nicht. Die erbrachten Beweise zeigen, dass die Dynamit A.G., Wasagchemie, Vorwertchemie und Deutsche Sprengchemie die meisten hochwertigen Sprengstoffe und Schießpulver aus Rohmaterialien und Zwischenprodukten der I.G. herstellten. Heinrich Schindler, ein Zeuge der Verteidigung, der leitender Ingenieur der Dynamit A.G. war, sagte aus, dass einer genauen, von ihm angefertigten Aufstellung zufolge, Tochtergesellschaften der I.G. 92 % aller von Deutschland von 1930 bis 1944 verwendeten Sprengstoffe und 86,5 % des gesamten Schießpulvers fuer dieselbe Zeit herstellten. Fuer das Jahr 1938 stellten sie 82,5 % des gesamten Sprengstoffes und 100 % des Schießpulvers her.

Es wurde ernstlich behauptet, dass die Dynamit A.G., der groesste Hersteller von Sprengstoffen, ein unabhängiges Unternehmen sei, fuer das die I.G. in keiner Weise verantwortlich war. Ich habe die erbrachten Beweise genauestens ueberprueft und bin zu der Schlussfolgerung gekommen, dass die Kontrolle ueber die Dynamit A.G. in Haenden der I.G. lag, und sie koennen der Verantwortung fuer die direkte Herstellung von Sprengstoffen innerhalb des Kriegesprogrammes nicht entgehen. Die Kontrolle der Dynamit A.G. durch die I.G. umfasste unter anderem (1) finanzielle Kontrolle durch ihren Aktienbesitz von 80,5 % der Vorzugs- und Stammaktien und durch einen Vertrag von 17. September 1926, (2) "organisatorisch" dadurch, dass sie in Sparte 3 unter den Angeklagten Gajewski, der ein Mitglied des Aufsichtsrates der Dynamit A.G. war (1936 - 1945), eingestuft war, durch den Angeklagten Schnitz, der Mitglied des Aufsichtsrates (von 1936 bis 1945) und Vorsitzender des Aufsichtsrates

der Dynamit A.G. seit 1938 war, und durch Paul Imeller, der Generaldirektor der Dynamit A.G., der ein Mitglied des RLA von Farben war; (3) wirtschaftlich durch ihre Abhängigkeit von den I.G. Werken fuer ihre Zwischenprodukte fuer die Herstellung von Sprengstoffen und Schiesspulver, und durch die Bestimmung, dass die Zustimmung der I.G. fuer ein Ausbauen der Fabriken, fuer die Errichtung neuer Werke und fuer das Ersetzen von Maschinen einzuholen war; und (4) durch andere Mittel der Kontrolle. Betreffs des Verhältnisses der I.G. zu der Dynamit A.G., zwingen die Beweismittel zu der Schlussfolgerung, dass allen praktischen Zwecken zufolge die Dynamit A.G. eine Tochtergesellschaft der I.G. unter deren wirksamer Kontrolle war. Es ist zu beachten, dass die Dynamit A.G. noch andere Unternehmen auf dem Gebiet der Sprengstoffherstellung, einschliesslich der Verwertchemie, von der die Verteidigung sagte, dass sie eine "100%ige Tochtergesellschaft der DAG" ist, und welche die Verteidigung als "das Zentrum der Ruestungsherstellung des DAG Konzerns" bezeichnet hat, kontrollierte.

Synthetisches Benzin.

Die I.G. gab enorme Summen Geldes fuer die Entwicklung im Versuchstadium ihres Prozesses fuer die Herstellung synthetischen Benzins aus. Vor Hitlers Machtnuebernahme wurde das synthetische Oelprogramm in der Nazipresse angegriffen. 1933 besuchten die Angeklagten Gattineau und Guetofisch Hitler und erhielten die Versicherung, dass die Angriffe aufhoeren wurden, und das Programm seine Unterstuetzung erhalten werde.

Nach Hitlers Machtnuebernahme wurde am 14. Dezember 1933 ein Abkommen zwischen der I.G. und dem Reichswirtschaftsministerium getroffen, unter dem die I.G. eine Garantie fuer den Preis sowohl wie fuer das Absatzvolumen betreffs der Herstellung des synthetischen Benzins erhielt. Das Abkommen war von solcher Bedeutung, dass es Hitler zur persoenlichen Begutachtung vorgelegt werden musste. Die I.G. unternahm eine grossmuetige Erweiterung der Herstellung von synthetischem Benzin in den Leunawerken in Fruedjahr 1933.

Der angeklagte Guetofisch sagte aus:

"Ich vergesse den Tag des Jahres 1933 nicht"....."als ich von der Reichsregierung in Berlin den Befehl annehmen konnte, die Herstellung von Benzin aufzunehmen und mit aller Kraft zu erweitern, die aus wirtschaftspolitischen Gruenden vor der Machtnuebernahme nicht voll entwickelt werden konnte. Von diesem Tage an machten wir die stets grosseartige Erfahrung unsere Industrie in einem bisher unbekannten Masse zu erweitern".

Waehrend es zweifelsohne wahr ist, dass eine betraechtliche friedensmaessige Erweiterung der Benzinproduktion in Zusammenhang mit der erhoehten Motorisierung Deutschlands und der Konstruktion der Autobahnen berechtigt war, ist es ebenfalls wahr, dass militaerische Erwaegungen fest mit dem synthetischen Benzinprogramm verbunden waren, und dass die militaerische Bedeutung rapide die ueberwiegende Erwaegung wurde.

Schon am 11. Oktober 1934 hat General Bockelberg, der Chef des Heeresruestungsamtes, mit den Farbenvertretern Haush, Schneider und Buestefisch ueber Massnahmen, welche im Kriegsfall auf dem Treibstoffgebiet zu nehmen seien, konferiert. Zur Erweiterung der Produktionsbasis wurde Farben ein Mitgruender der Erbag und erteilte dieser Gesellschaft Lizenzen unter ihrem Hydrierungspatent. Farben entwickelte hochgradiges Flugbenzin fuer die Luftwaffe. Weitere Reichszuschuesse wurden erlangt. Die militaerische Bedeutung des Kinstoelsprogramms wurde von Goering auf der Sitzung vom 26. Mai 1936, welcher der bereits erwahnte Angeklagte Schmitz beiwohnte, hervorgehoben.

In einem Bericht vom Januar 1939 bemerkte der Kriegswirtschaftsstab des OKW, dass ".... Erdool genau so wichtig fuer die moderne Kriegaefuehrung ist wie Panzerwagen, Schiffe, Tauffen und Kamition" Ein amtlicher Bericht, der vom Feindesgehoersamkeitsschuss fuer die Treibstoff- und Schmierzmittelabteilung in der Dienststelle des Generalquartiermeisters der US Armee im Maerz 1945 ueber Deutschlands Petroleumversorgung verfasst wurde, fasst den Beitrag der Farben auf dem Gebiet des synthetischen Benzins und der Schmieroelo im Folgenden richtig zusammen:

"Der hervorragende Zug der Deutschen Oelwirtschaft waehrend der letzten 10 Jahre war die ausserordentliche Entwicklung seiner synthetischen Oelanlagen zur Herstellung von Oel aus Kohle. Dieser Versuch zur Erlangung der vollen Selbstesaendigkeit auf dem Oelgebiet, welcher ohne Ruucksicht auf Kosten oder orthodoxe finanzielle Betraechtungen gemacht wurde, hat nirgends seinesgleichen, und ist ein schlagendes Beispiel des Charakters des deutschen Hauptplanes zur Weltbeherrschung, welcher die Herstellung aller fuer die moderne Kriegaefuehrung notwendigen Mittel innerhalb seiner eigenen Grenzen verlangt...."

Synthetischer Gummi.

Ebenso erfolgreich fuer die Ausruestung der Nazi Kriegsmaschine war die Arbeit der Farben auf dem Gebiet der synthetischen Gummierzeugung aus Kohle. Nachdem das Versuchsverfahren ausgearbeitet war, wurden von 1933 bis 1935 zahlreiche Konferenzen zwischen Farbenvertretern und Reichsstellen, wie das Heeresruestungsamt und das Reichswirtschaftsministerium, gehalten. Als Ergebnis dieser Verhandlungen wurde ein intensives Programm zur Herstellung von synthetischem Gummi in grossen Mengen ausgearbeitet, und nachher in der Zeit von 1936 bis 1937, als die etwaigen militaerischen Erfordernisse zahlreicher und dringlicher wurden, mit Hilfe verschiedener Reichszuschuesse erweitert. Das Ausmass der geplanten Produktion auf diesem Gebiet ging weit ueber die Beduerfnisse der Friedenswirtschaft hinaus. Die grossen Kosten, die damit verknuepft waren, waren nur mit militaerischen Betraechtungen vereinbar, wobei das Beduerfnis nach Selbstversorgung unbeachtet der Kosten den Ausschlag gab.

Militärische und politische Betrachtungen beherrschten die Entwicklung dieses Programms. Die Wahrheit wird von den Zeugen Elias ausgesagt, indem er erklärt, dass die Deutsche Armee "sich fast ganz auf den synthetischen Gummi der Farben verliess." Es kann kein Zweifel bestehen, dass die synthetische Gummiproduktion der Farben dem Reich die Kriegsführung unabhängig von ausländischem Material ermöglichte, eine Leistung, welche ohne die synthetische Gummientwicklung der Farben unmöglich gewesen wäre. Die Angeklagten Grauch, ter Meer und Ambros haben besonders an der Entwicklung dieses Stadiums des Beitrags der Farben zur Vorbereitung Deutschlands auf Krieg gearbeitet.

Leichtmetalle..

Schon 1933 schenkte das Reichsluftfahrtministerium den Materialerfordernissen fuer Kampfflugzeuge Beachtung und bei einer Besprechung im Luftfahrtministerium am 15. September 1933 hat Staatssekretär Milch

"sich mit den Vorschlaegen zur Heranziehung neuer Firmen fuer die Herstellung einverstanden erklärt, und insbesondere die Einrichtung eines neuen Roehrunsalzwerkes, die Erweiterung der Produktion in Bitterfeld und einer neuen Elektronmetallfertigungsstätte auf der Grundlage von Magnesiumchlorid genehmigt. Dies galt auch fuer die Herstellungsvorbereitungen fuer Thermit, welche erforderlich werden wurden. Als hervorgehoben wurde, welche grosse Kosten die Herstellungsvorbereitungen mit sich bringen wurden, erklärte Staatssekretär Milch, dass die noetigen Mittel zur Verfuegung gestellt wurden.

"Betreffs der sehr hohen Erzeugerfordernisse in Elektronmetallbomben, hob das Th A hervor, dass die Herstellungsvorbereitungen wahrscheinlich die Errichtung einer Anzahl neuer Elektronmetallwerke erfordern wurde, und voraussichtlich sogar neuer Elektrizitätswerke, die nicht durch Friedensanordnungen erhalten werden koennen."

Im selben Jahr begann die Zusammenarbeit der Farben mit dem Reichsluftfahrtministerium. Dr. Ernst Struss, der Sekretär des Technischen Ausschusses des Vorstands der Farben, der als Zeuge fuer die Anklage sowohl wie fuer die Verteidigung erschien, sagte:

"1933 erhielt die IG von der Luftwaffe den Befehl, ein Magnesiumwerk mit einer Kapazität von 12.000 Jahresstunden zu bauen. Die Luftwaffe wählte den Bauplatz in Aken. Die Anlage war 1934 teilweise fertig, als die Produktion aufgenommen wurde. Das Werk und die Produktion sollten auf Befehl der Luftwaffe geheimgehalten werden.

"Die Verhandlungen fuer die Errichtung der Anlage durch die IG wurden zwischen der Luftwaffe und Dr. Pistor von Bitterfeld gefuehrt. Später erhielt Dr. Pistor von Schmitz eine Art Blankogenehmigung zur Fortfuehrung der Verhandlungen. Dieses Verfahren war zu dieser Zeit nicht ueblich. Die finanzielle Regelung mit der Luftwaffe war bereits getroffen worden, bevor das Projekt der IG vorgelegt war. ... Istgesamt betrug die Kapitalanlage fuer Magnesium und Aluminium ungefaehr RM 48.000.000.- und fuer Magnesium allein betrug sie ungefaehr 40.000.000.- Mark. IG erhielt ausserdem eine besondere Bewilligung vom Finanzministerium, welches IG ermächtigte, eine jährliche

Abschreibung von 20 % auf Maschinen im Werk vorzusehen. Die übliche Abschreibung betrug 10 %, sodass IG einen erheblichen Vorteil erlangte.

"Bevor das Werk wirklich gebaut wurde, nahm die Luftwaffe eine Reihe von Proben aus der Luft vor, um festzustellen, wie die Anlage selbst am besten getarnt werden konnte. Gemäss dem Ergebnis dieser Proben, in welchen der Chefingenieur von Bitterfeld, von der Bey, teilnahm, wurden die Pläne für die Anlage wiederholt gewechselt, bis die Luftwaffe zufriedengestellt war, dass die Anlage von der Luft aus wohlverborgen war. Dr. Pistor erklärte dann in der TZA, dass IG durch die Tarnungsanforderungen erhebliche zusätzliche Kosten zu tragen hatte.

"Ebenfalls auf Befehl der Luftwaffe, begann IG 1934 eine weitere Magnesiumfabrik zu planen, für welche die Luftwaffe Stassfurt als Hauptplatz wählte. Der Bau der Anlage begann 1935 und sie wurde 1938 fertiggestellt. ... Die Produktionskapazität für Magnesium war 13.000 Jahrestonnen seit 1942. Die Gesamtinvestitionsanlage betrug 50.000.000,- Mark. Die Luftwaffe finanzierte den Bau indem sie einen Kredit von 44.000.000,- Mark gewährte. Auch hier war das Finanzministerium mit einer erhöhten Abschreibung in Höhe von 20% jährlich einverstanden.

"Für Aken sowohl wie Stassfurt war es der IG erlaubt, der Luftwaffe einen erhöhten Betrag über den Kostenpreis und den üblichen Gewinn hinaus zu berechnen, um die Kredite aus dem erwachsenen Extragewinn zurückzahlen."

Im Zeugensatz erklärte Dr. Struss, dass der erwachte Kredit von 44.000.000,- RM von der Luftwaffe sowohl für die Anlage in Aken als auch in Stassfurt war. Ein anderes Mal sagte Dr. Struss:

"3. ... Kurz nach der Aufnahme der Produktion in Aken, wahrscheinlich im Sommer 1935, besuchte ich Aken sowohl als auch Bitterfeld und bemerkte, dass zweifellos fast die ganze Produktion dort in Form von Röhren und in Kisten verpackt lagerte. Diese Röhren waren 8 cm im Durchmesser, die Wand war 1 cm, und die Länge 30 cm. Zweifellos waren diese Röhren Teile für Brandbomben. Diese Röhren waren in einheitlichen Kisten verpackt und wurden Textilhuelsen genannt. Jedermannachte, wenn einer über 'Textilhuelsen' sprach oder sie erwähnte. Die Bedeutung war allgemein bekannt, und darum grinsten jeder, wenn Textilhuelsen durch das Werk transportiert wurden.

"4. Aken sowohl wie Stassfurt waren mit Anlagen, die die Luftwaffe gab, erbaut worden; und der IG wurden 5 Jahre zur Rückzahlung der Darlehen um besondere Tilgungsvorteile gewährt. Die Luftwaffe zahlte ausserdem viel mehr als den Kostenpreis für Magnesium und nahm die gesamte Produktion der Anlagen ab. Während der ersten zwei Jahre des Bestehens von Aken wurden mindestens 90% des in Aken und Bitterfeld hergestellten Magnesiums zu diesen Röhren verarbeitet und weggeschickt...."

1. 1938 wurde eine Vereinbarung zwischen Farben und dem Reichsluftfahrtministerium getroffen im Zusammenhang mit "einer zweiten Mahlanlage fuer Bi IV/1 Pulver". Bi IV/1 Pulver wird als Pulver beschrieben, das zur Herstellung aus Aluminium und Magnesium besteht und fuer Leuchtkugeln und Brandbomben verwendet wird. In einem Brief vom Reichsluftfahrtministerium und Oberbefehlshaber der Luftwaffe an Farben vom 7. September 1938 wird erklart:

"...Im Mob.-Programm ist eine Monatsproduktion von 75 Tonnen Bi IV/1 Pulver vorgesehen. Es muss von Ihnen ausdruecklich bestaetigt werden, dass die Gesamtproduktion in beiden Werken im Falle der Mobilmachung 150 Tonnen per Monat betragen wird.

II. Die Verwirklichung Ihres Plans.

Was den Ausbau Ihres Bitterfeld Werkes an Groesse, wie sie zur Durchfuehrung der oben erwaehnten Aufgabe benoetigt wird, anbelangt, sind alle Massnahmen zu treffen, um eine baldmoegliche Aufnahme der Produktion zu ermoeeglichen".

In Zusammenhang mit der Menge von Magnesium und Aluminium, die von I.G. Farben hergestellt wurde, erklart Dr. Struss:

"Im Jahre 1930 betrug die Magnesiumproduktion der I.G. Farben 600 Tonnen. 1932 erreichte die Produktion 28.100 Tonnen. So hatte Farben eine Produktionssteigerung in Magnesium von mehr als 4.000 Prozent zu verzeichnen.

1930 betrug Farbens Anteil an der Aluminiumproduktion 1.750 Tonnen, 1943 wurden 34.000 Tonnen erzielt. So war eine Steigerung in der Farben-Aluminiumproduktion von etwa mehr als 1.300 Prozent aufzuweisen."

Dr. Bernhard Neukirchs Bericht ueber die "Entwicklung der Leichtmetallindustrie im Rahmen des Vierjahresplans", welcher dem angeklagten Krauch gewidmet war, zeigt, dass die Farbenwerke in Bitterfeld, Alsen und Staasfurth bis 1939 eine Leistungsfahigkeit von 17.100 Jahrestonnen von Magnesium erreicht hatten und dass Vorkehrungen bereits getroffen waren, um eine Steigerung der Leistungsfahigkeit der bestehenden Werke von 16.900 Jahrestonnen zu erzielen, sowie fuer die Errichtung eines neuen Werkes in Gerethofen durch I.G. Farben mit einer Leistungsfahigkeit von 6.000 Jahrestonnen. Somit ergibt sich, dass die Leistungsfahigkeit der Farbenwerke fuer die Herstellung von Leichtmetallen waehrend dieses Zeitraums mehrfach gesteigert wurde.

Wie bereits von Dr. Neukirch in seinem Bericht darauf hingewiesen wird, hatte I.G. Farben es auf sich genommen, nach der Eroberung von Norwegen neue Plaene fuer die Steigerung der Leichtmetallproduktion in Norwegen zu verwirklichen, indem sie die Einrichtungen des Werkes Norsk Hydro ausbeutete und benutzte.

Gaskampfmittel

Obwohl, soweit man weiss, Giftgas während des zweiten Weltkrieges nicht zur Anwendung kam, hat sich Farben in den Jahren vor und während des Krieges weitgehend an Experimenten, Vorbereitungen und der Herstellung von Giftgas beteiligt. Man kann es dem Angeklagten Ambros zugute halten, dass er sich daran beteiligte, Hitler von seinen Vorhaben Giftgas anzuwenden abzubringen. Für die Herstellung von Sprengstoff, Schiesspulver und Gaskampfmittel war enge Verwandtschaft und Verkettung der Vorprodukte notwendig. Der Beitrag der I.G. Farben zu den Vorbereitungen für einen Gaskrieg bestand aus Forschungsarbeiten, Entwicklung und Herstellung von Senfgas, Traenengas, Stickstofflost, Adamsit (Kohlenreizstoff) und Phosgen. Die Entwicklung und Herstellung von Gaskampfmitteln war eng verwandt und wurde koordiniert mit der Fabrikation und Entwicklung von anderen chemischen Kampfstoffen. Der Vertrag zwischen Farben und Orgacid vom 22. Juli 1935 für die Herstellung von Äthylenoxyd aus Alkohol und die Herstellung von Polyglykol A aus Äthylenoxyd, nach dem Farben "als Berater in allen chemisch-technischen Fragen fungieren solltealle Forschungsarbeiten, die eventuell nötig sein sollten, durchzuführen hatte", ist ein typisches Beispiel. In den Jahren 1936 und 1937 waren Planungsarbeiten im Zusammenhang mit Forschung und Herstellung von chemischen Kampfmitteln fortlaufend in Gange. Die Beweisaufnahme hat ergeben, dass ein "Beschleunigungsplan" vom 30. Juni 1938 bestand, welcher die Beschleunigung des Programms zur Steigerung der Produktion von vielen chemischen Produkten, einschliesslich von chemischen Kampfstoffen, vorsieht. Nach seiner Ernennung durch Goering zu "seinem Beauftragten in diesem Arbeitsgebiet" drängte Krauch in einem Brief vom 26. August 1938 an die Ludwigshafenfabrik der I.G. Farben auf die baldige Verwirklichung von Bauprojekten für die Herstellung von mehreren chemischen Produkten einschliesslich Senfgas und stellte fest, "dass eine Verzögerung des Termins für die Fertigstellung nicht geduldet werden kann". Die Leistungsfähigkeit der geplanten Giftgaswerke, für welche Farben die Verantwortung trug, war mehr als 75 % der Gesamtleistung am 1. September 1939 und im Dezember 1942 schätzte das Krauch Büro den Anteil der I.G. Farben auf 90 %.

Das protokollierte Beweismaterial zeigt mit genügender Klarheit, dass die überwiegende Verantwortung für die Forschung und Herstellung auf dem Gebiet der chemischen Kampfmittel direkt vor und während des Krieges von I.G. Farben getragen wurde.

Erweiterung der Werkseinrichtungen

Für das Aufrüstungsprogramm wurde ein gewaltiges Kapital für die Erweiterung von Werke- und Produktionseinrichtungen beansprucht. Um diesen Bedarf zu decken wurden besondere finanzielle

Vereinbarungen zwischen Farben und dem Reich getroffen unter Berücksichtigung der Art der Betriebe und ihrer Einrichtungen, ihres Zweckes und der benötigten Summe. Die Akten der Farben zeigen, dass gewöhnlich drei verschiedene Pläne in Anwendung gebracht wurden: (1) Vertragsunternehmen für welche Anleihen vom Reich oder von einer Reichsstelle aufgenommen wurden, die hauptsächlich zum Zweck der Errichtung von neuen Werken dienten und die vereinbarungsgemäss im Lauf der Jahre liquidiert wurden, indem Rückstellungen für Abschreibungen zu einem erhöhten Prozentsatz und beschleunigt gemacht wurden. Unter den Werken die durch diese Finanzierungsmethode erweitert wurden, befanden sich Bitterfeld, Aken, Rottweil und die Leuna Werke; (2) vier-Jahres-Werke, die mit Farben Kapital auf Befehl des Reiches errichtet wurden unter der Vereinbarung, dass (a) entweder die Reichsstellen der Farben die Baukosten nach einem Tilgungsplan, der vertraglich festgelegt war, in jährlichen Raten zurückerstatteten oder (b) dass es der Farben dem Vertrag nach erlaubt war einen erhöhten Prozentsatz an Abschreibungen in den Preisen einzuberechnen bis die Errichtungskosten getilgt waren. Nach diesem Plan wurden nicht selbstständigen Werke sondern bestehende Farben-Werke erweitert; (3) staatliche finanzielle Unterstützung der I.G. Farben in anderer Form wie: (a) Gewährung von Subventionen für Farben für die Verwirklichung besonderer Bauprojekte, (b) Ertragssteuer wie von Buna Verkäufen welche für den Bau von anderen Werken verwendet werden konnten, wie es im Zusammenhang mit dem Auschwitz Buna Werk der Fall war, oder (c) Steuerermässigungen für neue Produkte wie für Zellulose in Velfen und für Buna in Schkopau und Huels und (d) Osthilfe Steuergesetz welches liberale Befreiungen von der Schätzung der Investitionen vorsah.

Zu den Stellen die von der Nazi-Regierung für die Durchführung von Vereinbarungen für die Erweiterung von Werken und Betriebsanlagen eingeschaltet waren, zählten die im Reichsbesitz befindlichen "Montan" und "Wifo"-Gesellschaften. Oft war die Montan oder Wifo Vertragspartner für die Errichtung und den Betrieb von solchen Werken durch I.G. Farben. Von den 37 Montan chemischen Werken wurden 36 von I.G. Farben und ihren Tochtergesellschaften errichtet und betrieben. Der Zeuge Zeidelhack schätzte den Kapitalwert dieser Werke allein auf 1,3 Millionen Reichsmark. Er erklärte auch, dass "von der Gesamtzahl von 76 chemischen Projekten des Hoeresuchungsamtes nicht weniger als 75 von der I.G. durchgeführt wurden und entweder von ihr betrieben oder beaufsichtigt wurden."

Zeidelhack sagte ferner, dass Farben in der Entwicklung des Aus-
 weitungsprogramms "eine besonders ausgeprägte Initiative fuer das Aus-
 fuenftigmachen von Dangelnaden und fuer das Aufstellen bestimmter
 Pladne zeigte. Ohne die starke Mitwirkung der IG, sowie der D.G.
 und seiner Erfahrung und Initiative waere es unmoglich gewesen,
 das chemische Projekt der Armee durchzufuehren."

Wahrend Wifo vorwiegend eine Gesellschaft des Reiches war, besass
 die Farben ein Viertel ihres "Grundungskapitals". Wifo war haupt-
 sachlich mit der Herstellung und Lagerung von kritischem Kriegs-
 material wie Schwefel- und Salpetersaure beschaeftigt und mit der
 Errichtung von Bereitschaftsfabriken - gewoehnlich mit Schatten-Fabriken
 bezeichnet - die nur im Kriegsfall zu einer ausgedehnten Produktion
 herangezogen werden sollten.

Im Protokoll der TBA-Verammlung, die am 30. Juni 1943 in Berlin
 stattfand, befindet sich eine Ubersicht ueber den Zustand der Farben-
 Anlagen infolge Zerstoeerungen durch Bombenangriffe. Es zeigt, dass
 man diese Moeglichkeit in Erwaeung gezogen hatte, die man das Er-
 weiterungsprogramm seit 1933 ausarbeitete. In diesem Protokoll heisst es:

 "Die Erhoehung der bestehenden Produktion, die seit 1933 im Gange
 war und die aufbauen neuer Fabrikanlagen voranwogen, die grundsuetzliche
 Entscheidung, neue, grosse Anlagen fuer diesen Zweck zu errichten,
 wofuer - abgesehen von den neuen Fabrikanlagen - auch Erwaerung, die
 schon in den alten Fabrikanlagen der IG hergestellt wurden, abgebaut
 sollten. Auf dem Gebiet der organisch-chemischen Artikel wurde
 Schropau im Jahre 1935 gegründet, wo einschliesslich der Buna-
 Produktion die Massen-Herstellung von Phthalasaure, Essigsaurehydrid,
 Chlorvinyl und Igelit geplant war, um die weitere Erhoehung der
 Produktion im Westen auszuscheiden. Die Gruendung der haupt-
 sachlichsten Anlagen erfolgte

1935 Landsberg
 1938 Biele
 1936 Moosbiorkaum
 1939 Heydebrack
 1941 Auschwitz

deren Lage und Produktionsprogramm von Anfang an so gewaehlt
 waren, dass sie Fabrikanlagen, die bereits in anderen - hauptsachlich
 Fabrikanlagen des Westens - existierten, uebernehmen wurden."

Mit Bezug auf die Finanzierung der neuen Anlagen sagt Zeuge Denker,
 dass die Farben "die Stellung einnahmen, dass zu jener Zeit (1934) die
 gesamten verfügbaren Anlagen ausreichten, den Friedensbedarf zu
 decken". Infolgedessen wurde die Wifo gegründet "um die Herstellung
 von Salpetersaure zu erhoeben, wofuer die IG nicht geneigt war, ihre
 eigenen Mittel zur Verfuegung zu stellen." Alle diese Anlagen wurden
 aber von der Farben betrieben.

Es ist ganz klar, dass in Bezug auf die finanziellen Abkommen, die
 fuer das Erweiterungsprogramm gemacht wurden, keine bestandige Politik
 seitens des Reiches und der Farben eingehalten wurde. Wenn die
 Erweiterungen ausserhalb der Friedensproduktion der Farben lag oder diese
 ueberstieg, wurde gewoehnlich ein besonderes finanzielles Abkommen

getroffen, um die finanziellen Lasten der Farben zu erleichtern und um das Programm finanziell interessant zu machen.

Das Protokoll des Vorstandes der Farben vom 25. September 1941 zeigt, dass Farben in der Zeit von 1932 bis 1941 zweitausend Millionen Reichsmark fuer Neubauten ausgab.

Das Beweismaterial zeigt, dass von den vielen verschiedenen Farben-Erzeugnissen, die folgenden strategisch wichtiges Kriegsmaterial waren: Stickstoff (Ammonia N), Diglykol-Sprengpulver, synthetisches Benzin, Tetraethyl-Blei, synthetischer Gummi, Magnesium, Aluminium, Giftgas, Schwefelsaure, Chlor-Natron und Pottasche, Calcium Karbid, Natrium Cyanid, Antikoagulationsmittel, Methanol und andere Lösungsmittel. Farben-Akten zeigen eine ueberaus grosse Erweiterung ihrer Produktionsmittel fuer diese Materialien in den Jahren 1932 - 1944. Im Jahre 1932 war die Kapitalanlage der Farben fuer die Erzeugung dieser Materialien 4.901.000 RM; 1933 waren es 12.215.000 RM (fast dreimal soviel); 1934 waren es 225.238.000.- RM (ca. 45 Mal soviel); und 1945 waren es 421.500.000.- RM (mehr als 86 Mal der Anlage von 1932).

Aus dem Labyrinth statistischer Mittailungen und den Einzelheiten, die die Aufzeichnungen dieses Falles ergaben, erscheint ein Bild von gigantischem Ausmass, das die fieberhafte Tatkraft der Farben in einer kriegsmassigen Atmosphaere von Notlage und Krise zeigt, zum Zwecke der Wiederaufruestung Deutschlands, ohne Ruucksicht auf wirtschaftliche Erwagungen und in vollstaendiger Ubereinstimmung mit den durch die Nazi Regierung an sie gestellten Anforderungen. Die Unterlagen geben keines Fingerzeig, dass Farben und die Angeklagten jemals ihre Tatkraft und Initiative versagten, die dazu bestimmt waren, Hitler in seinen Plänen zu helfen, ein Deutschland zu schaffen, das militaerisch stark genug waere, die Welt zu beherrschen.

(c) Bevorratung kritischen Kriegsmaterials.

In der Zusammenfassung der Farben Mitwirkung in der Aufruestung Deutschlands wurde wiederholt auf die Bevorratung kritischen Kriegsmaterials Bezug genommen. Schon im Jahre 1934 fing Farben in Zusammenarbeit mit dem wirtschaftlichen Kriegsvorbereitungsprogramm der Regierung an, Kriegsmaterial zu bevorraten. Seit jener Zeit verfolgte und vergruesserte Farben sein Bevorratungsprogramm von strategischem Material. Seit 1935 wurden durch die Farben periodisch Berichte ueber die Bevorratung von "Schwefelkies" an die Behoerden gemacht; seit Sommer 1935 wurden Roehren fuer Grandbomben unter dem Decknamen Textilhuelsen in Aken gelagert; in einem Besichtigungsbericht vom 11. September 1935, der die Uberschrift "Nickel Fabrik Oppau" traegt und von dem eine Abschrift den Angeklagten Krauch, Haefliger und Gattineau zugeleitet wurde, wird von Plänen fuer "eine grosse Lieferung Nickel-Kupfer-Ers fuer die Bevorratung" berichtet.

Der Angeklagte Haeffliger war besonders erfolgreich mit Nickelimportationen durch Ausbeutung von Farbens internationalen Kartellabkommen. Die Firma Farben hatte mit der Mond Nickel Company Limited in England einen Vertrag auf eine bestimmte jährliche Nickelmenge abgeschlossen. Das Protokoll einer Ludwigshafener Besprechung vom 5. April 1939, bei der auch der Angeklagte Haeffliger anwesend war, enthält, mit Bezug auf diesen Nickelvorrat, Hinweise, dass die über den Nickelverbrauch in Deutschland an die englische Gesellschaft gemachten Berichte "nicht mehr in der wie bisher üblichen ausführlichen Form gemacht werden sollten", da "Berlin mehr gegen solche Berichte eingestellt ist"; das Protokoll beschreibt weiter die "in Berlin vorherrschende Meinung von anderer Seite Nickel nach Deutschland einzuführen, wo diese Einfuhr von heereswirtschaftlichen Standpunkt weniger verdächtigen Bedingungen unterliege". In einer Aktennotiz vom 19. Oktober 1939 des Angeklagten Haeffliger wird ein Abkommen mit der International Nickel Company von Canada aufgesetzt, die, wie erwähnt, ungefähr 85 % der Nickelherzeugung der Welt beherrscht. Hierdurch "gelang es I.G. den Trust dazu zu bewegen, auf eigene Kosten eine bedeutende Menge von konzentriertem Nickel zu Gunsten der I.G. in Deutschland zu lagern". In dieser Aktennotiz erwähnt Haeffliger, dass bis zu den letzten Tagen vor Kriegsausbruch, die International Nickel Company keine "Schritte unternommen hatte, das sich auf mehrere Millionen belaufende Risiko der Lagerung solcher Mengen aus dem Wege zu schaffen".

Farben unternahm im Jahre 1935 den Bau eines bombensicheren Benzindepots für die Lagerung von Treibstoff und traf im Jahre 1936 auf Ansuchen der Regierung und dank seiner nahen Beziehungen mit der Standard Oil Company ein Abkommen für den Kauf von Benzin für zwanzig Millionen Dollars. Diese Summe wurde von der Regierung zur Anlage eines Benzinvorrates bereitgestellt. Im July 1938 wurde auch Tetraethylblei aus Amerika bezogen. In Bezug auf dieses Geschäft, sagt der Zeuge der Farben Herr Dr. Haeffliger das Folgende aus:

"Auf Ansuchen des Luftfahrtministeriums und auf direkten Befehl Goerings verschaffte sich I.G. Farben im Jahre 1938 von den Vereinigten Staaten 500 Tonnen Tetraethylblei von der Ethyl Export Corporation. Das Luftfahrtministerium benötigte dies Blei, weil es zur Erzeugung von hoch octanen Fliegertreibstoff unbedingt erforderlich war und weil man in Deutschland einen Vorrat davon anlegen wollte bis das Luftschiffahrtsministerium durch die deutschen Werke genügend Mengen davon erzeugen lassen konnte. Wir erzeugten genug Tetraethylblei für laufende Bedürfnisse, aber die Lagerung von 500 Tonnen von Tetraethylblei wurde für den Fall unternommen, dass im Kriegsfall Deutschland nicht genug davon hatte, um Krieg zu führen. Aus diesem Grunde verfolgte das Deutsche Reich eine Politik der Vorratslagerung. Schliesslich wurde dann entschieden, das Tetraethylblei leihweise zu beschaffen. Die Herren waren sämtlich sehr bestürzt als Goering für 12 Uhr Mittags des folgenden Tages einen Bericht verlangte. Es war allgemein bekannt, dass Tetraethylblei sehr benötigt wurde, da die deutsche Erzeugung wohl für Friedenszwecke ausreichte, doch zur Kriegsführung ungenügend war.

und wir es uns sofort fuer Fliegerbenzin beschaffen mussten".

Im November des Jahres 1938, sandte die Vermittlungsstelle 7 Rundschreiben an die verschiedenen Farbenwerke, um die Anforderungen des Reichswirtschaftsministeriums bekannt zu geben, dass naemlich soweit als moeglich ein dreiwochentlicher Bedarf noch ausser den normalen Vorraten gelagert werden sollte, "so dass im Mobilisationsfalle die Erzeugung infolge der angehauften Vorrate fortgesetzt werden kann".

Der Bericht beweist klar, dass in Gemeinschaft mit den Reichsstellen Farben in den Jahren vor den Kriege ein weitausgedehntes Programm der Aufspeicherung strategischen und entscheidenden Kriegsmaterials mit Hinsicht auf einen etwaigen Kriegsbedarf verfolgte. Die Firma Farben machte von ihren internationalen Verbindungen zum Zweck solcher aufspeicherung Gebrauch und verheimlichte dabei oft den wahren Zweck solcher Geschaefts.

(f) Die Benutzung internationaler Abkommen zur Schwachung von Deutschlands moeglichen Feinden.

Durch ihre ueber die ganze Welt verbreiteten Unternehmungen hatte die Firma Farben zahlreiche Verbindungen und Abkommen mit Geschaeftsbetrieben anderer Laender. Durch Kartellvertraege, Teilnahme an Patentrechten, Interessenverbindungen und anderer gegenseitiger Abkommen mit Geschaeftsunternehmen ueberall in der Welt war die Firma Farben in der strategischen Lage, die Ausbreitungsplaene der Naziregierung weitgehendst zu unterstuetzen.

Unter diesen internationalen Abkommen war ein zwischen der Firma Farben und der Standard Oil Company of New Jersey abgeschlossener Vertrag, in welchen die Standard Oil Company Farbena Veltberrschaft oder Vorrang auf dem Gebiete der Chemie anerkannte, waehrend Farben sich der Fuehrung der Standard Oil Gesellschaft in Bezug auf Oel ueberall mit Ausnahme von Deutschland unterstellte.

In einem Schreiben vom 9. November 1933 sprach der Praesident der Standard Oil Gesellschaft, Mr. Taegle, mit Bezug auf den unter diesem Datum abgeschlossenen Vertrag, von ihrem gegenseitigen Uebereinkommen, das die Absicht verfolgte "bereitwilligst allen zukuenftigen Moeglichkeiten im Geiste gegenseitiger Hilfeleistung entgegenzutreten". Ins Besondere fuagte er dann hinzu:

"Falls die Vollziehung dieser Abkommen oder wesentlicher Bestandteile derselben durch einen der Vertragsschliessenden hiernach infolge der Wirkung eines jetzigen oder zukuenftigen Gesetzes unterbunden oder verhindert wird, oder falls die Vorteile des einen oder anderen Teilnehmers zu bedeutenden Masse durch ein Gesetz oder eine Regierungsgewalt beeintraechtigt werden, muessen die Teilnehmer in Sinne des jetzigen Abkommens neue Verhandlungen unternehmen und sich dabei bestreben, ihre Beziehungen den so entstandenen, veraenderten Bedingungen anzupassen".

Dieses Abkommen von 1929 folgte 1930 ein weiterer Kontrakt dessen Zweck, wie angegeben, "in dem Wunsch und in der Absicht der Teilnehmer bestand, gemeinsam und auf gleicher Grundlage (50 - 50) ihre neuen chemikalischen Prozesse zu entwickeln und auszubeuten".

Eine in gemeinsamen Besitze befindliche Gesellschaft namens Jasco wurde errichtet, um die Verfahren, die ihr entweder von der Standard Oil Company oder der IG uebergaben wurden, weiter zu entwickeln. Die Vertragspartner kamen ueberein, dass die Entwicklung der Kunstgummiverfahren sowohl als auch die Entwicklungen auf dem Gebiete des Kunstgummis der Jasco uebergaben werden sollten.

Schon in der Fruehzeit des Nazi-Regimes begannen Anzeichen hinsichtlich der Beschraenkungen, die den Beziehungen der deutschen Unternehmungen mit denen im Ausland auferlegt wurden, aufzutauhen. Die IG setzte jedoch ihre Politik der Verhandlungen und des Abschlusses internationaler Vertraege innerhalb ihres Interessengebietes fort. Am 9. Maerz 1934 schrieb die IG an die Chemnyco, ihre Tochtergesellschaft in New York, im Zusammenhang mit der "von der deutschen Regierung hinsichtlich internationaler Vertraege ueber technische Zusammenarbeit vertretenen Ansicht", dass "wir ..., die auslaendische Industrie nicht den Eindruck gewinnen lassen sollten, dass wir in dieser Hinsicht nicht nach unserem Belieben Verhandlungen fuehren koennen."

In einem Memorandum vom 34. Juni 1935 ueber eine am 21. Juni 1935 zwischen der IG und der Zweigstelle des Heereswaffenamtes in Ludwigshafen-Oppau abgehaltenen Konferenz wurde gesagt:

"Die IG ist vertraglich zu einem weitgehenden Erfahrungsaustausch mit der Standard verpflichtet. Diese Lage scheint hinsichtlich der Entwicklungsarbeit, die fuer Reichsluftministerium ausgefuehrt werden, unhaltbar zu sein.

Daher wird das Reichsluftfahrtministerium in Kuerse eine eingehende Pruefung der Bewerbungen fuer Patente der IG durchfuehren.

Uebardies wird die IG dem Reichswirtschaftsministerium unter besonderer Beruecksichtigung dieser Lage die notwendigen Sicherheitsmassnahmen vorschlagen."

Obwohl der Zwiespalt zwischen der Verpflichtung der IG auf Grund ihrer Vertraege mit der Standard Oil und den Forderungen der deutschen Behoerden schon zu dieser Zeit von der IG erkannt wurde, wurde von der IG nichts unternommen, um die Standard Oil ueber ihre Lage offen zu informieren und "Verhandlungen anzubahnen im Geiste des bestehenden Abkommens und zu versuchen, sie an die geaenderten Verhaeltnisse, die sich ergeben hatten, anzupassen." Die IG verfolgte vielmehr in Verbindung mit der Nazi-Regierung eine Politik, die darauf gerichtet war, die Standard Oil-Company irrezufuehren. Howard von der Standard Oil hatte Veranlassung, in einem Brief vom 27. Juli 1936 den Geist, in dem seine Gesellschaft diese Vertraege mit der IG auffasste, wie folgt auszudruecken: "Dieses Arrangement ist solcher Art, dass es unbedingt des guten Willens beider Teile bedarf."

Am 14. Juli 1937 fand im Büro der Wehrmacht ueber die "Wahrung der Geheimhaltungspflicht in Bezug auf die Verbesserungen der IG-Verfahren bei der Erzeugung von Motortreibstoff und Schmieroelen, die fuer die nationale Verteidigung von Wichtigkeit sind" eine Zusammenkunft statt, der Vertreter der IG beiwohnten. Ein Bericht ueber diese Sitzung lautete folgendermassen:

...
"Da diese Art der Oelerzeugung kostspielig ist, so hat bis jetzt kein Interesse fuer dieses Verfahren bestanden, besonders, da aus der Registrierung die besonderen Vorzuge der Qualitaet nicht ersichtlich sind. Dadurch dass die Arbeit bemueglich dieser grossangelayten Ausbeutung geheimgehalten wird, ist es moeglich, die Versicherung zu erlangen, dass Deutschland den Vorrang hat.

...
Hinsichtlich der Iso-Oktanen ist es auch wissenschaftlich, dass die Errichtung von Erzeugungstaetten in Deutschland geheimgehalten wird. Seitens der IG wurde in dieser Verbindung erwachnt, dass sobald gewisse Produkte in grosseren Mengen zur Lieferung bereit sind (wie dies bei den Aethylen-Schmieroelen sowohl als auch bei den Iso-Oktanen in kuersester Zeit der Fall sein wird), eine Geheimhaltung hinsichtlich des Bestehens dieser Erzeugungstaetten kaum moeglich sein wird. Wenn dies bekannt wird, so wuerde dies doch zu unangenehmen internationalen Komplikationen angesichts der Verpflichtung der IG, ihre technischen Verfahren auszutauschen, fuehren.

In Zusammenarbeit zwischen dem Reichsluftfahrtministerium und der IG-Farbenindustrie wurde festgestellt, inwieweit der Stand der Erfahrung fuer die Erzeugung von Flugzeug-Benzin Iso-Oktanen und Aethylen-Schmieroel am 1. Juli 1937 war.

"Die IG wird keine weiteren Erklarungen ueber die Qualitaet der Oele, (Flugzeug-Benzin-Qualitaet) machen, die hinsichtlich des Aethylen-Schmieroel-Patents erreicht wurde und die tatsaechlich freigegeben wurde, um seine Patentfaehigkeit zu rechtfertigen.

Im Hinblick auf die Vortraege der IG bezueglich des Austausches technischer Prozesse darf die IG ihre Vertragspartner vorsichtig kurz vor dem Beginn der grossangelayten Produktion dahin informieren, dass sie beabsichtigt, eine gewisse Produktion von Iso-Oktanen und Aethylen-Schmieroelen in die Wege zu leiten. Es ist jedoch der Eindruck zu erwecken, dass es sich um grossangelayte Versuche handelt. Unter keinen Umstaenden duerfen Erklarungen hinsichtlich der Leistungsfahigkeit gemacht werden."

Im Anschluss an eine Besprechung mit General Thomas unterbreitete Bueterfisch ein Memorandum, ueber das er sich mit General Thomas verstaendigt hatte, und das vom 25. Januar 1940 datiert war. Darin erklarte der Angeklagte Bueterfisch folgendes:

"Dieser Austausch von technischen Verfahren, der noch immer selbst jetzt von neutralen Laendern auf die gewoehnliche Art und Weise gehandhabt wird, und der uns durch Holland und Italien uebermittelt wird, gibt uns erst Einsicht in die Entwicklungsarbeit und die Produktionsplaene der Gesellschaften resp. der Laender und informiert uns gleichzeitig ueber den Stand der technischen Entwicklung in Bezug auf Oel. In diesen Berichten ueber technische Verfahren werden uns Zeichnungen und technische Einzelheiten der verschiedensten Art uebergeben. Auf Grund der Vertragsverpflichtungen muessen wir auch unsere Erfahrungen bezueglich Oel im Rahmen des Vertrages vom Ausland zur Verfuegung stellen. Bis jetzt haben wir diesen Austausch der technischen Verfahren so gehandhabt, dass wir nur Berichte, die nach Beratung mit dem OKW und dem Reichswirtschaftsministerium uns als unbedenklich erschienen, weiterleiteten und nur solche, die technische Angaben ueber bekannte Tatsachen und ueber solche, die nach dem letzten Stand der Dinge vernuelt sind, enthielten. So haben wir die Vortraege auf solch eine Art und Weise gehandhabt, dass im allgemeinen die deutsche Wirtschaft gut dabei wegkam."

"Um den Kontakt mit den neutralen auslaendischen Laendern aufrechtzuerhalten, resp. mit den im Auslande gelegenen Gesellschaften, erachten wir es fuer ratsam, den Austausch von technischen Verfahren in der aufgezogenen Form beizubehalten, wobei wir unsererseits weiterhin das Prinzip verfolgen werden, dass auf diese Art und Weise unter keinen Umstaenden irgendwelche Verfahren militaerischer oder wehrpolitischer Bedeutung ins Ausland gelangen. In allen Faellen muessen zweifellos alle beteiligten Reichsbehoerden verstaendigt werden. ..."

Das Protokoll zeigt, dass dieses Memorandum von General Thomas abgezeichnet und von Goering unterschrieben und mit der Bemerkung versehen wurde: "Direktor Dr. Bueteffisch traegt die Verantwortung dafuer, dass nichts von militaerischer oder wehrpolitischer Bedeutung herauskommt." In einen Brief vom 6. Februar 1940 von General Thomas an "Dr. Bueteffisch, Vorstandsmitglied der I.G. Farbenindustrie AG" heisst es:

"Es ist jedoch notwendig, dass Sie persoenlich in Ihrer Eigenschaft als Leiter der Wirtschaftsguppe Treibstoff-Industrie und als Vorstandsmitglied der I.G. Farben-Industrie die Verantwortung dafuer uebernehmen, dass diese Dinge im Interesse der nationalen Verteidigung nicht in Auslande bekannt werden."

Am 16. Januar 1943 schrieb der Angeklagte ter Meer einen Brief an den Angeklagten Krauch und macht darin "Angaben ueber die von uns in den Vereinigten Staaten hinsichtlich Buna unternommenen Schritte". Ter Meer sagte:

"Abschliessend moechte ich darlegen, dass abgesehen von dem Lizenzvertrag, der mit unseren Alliierten, den Italienern, abgeschlossen worden ist, Verfahren und Produktionserfahrungen hinsichtlich des Butadien und der Erzeugung von Buna S und N dem Ausland nie zur Verfuegung gestellt wurden."

Diesem Brief legte ter Meer mehrere Memoranden ueber Konferenzen, die er mit den deutschen Behoerden vor Ausbruch des Krieges hatte, bei. In einem Memorandum hinsichtlich einer Konferenz, die im Reichswirtschaftsministerium am 18. Maers 1938 stattfand, und der ter Meer beiwohnte, heisst es:

".....Das Vorgehen Deutschlands mit der Grossfabrikation von Buna S, die Erkenntnis im Ausland, insbesondere in USA, dass Buna S ein brauchbarer Reifenkautschuk ist und schliesslich die in USA sich bietende Moeglichkeit, Buna S etwa zu mittleren Naturkautschukpreisen herzustellen zu koennen, haben in Amerika ein ausserordentlich grosses Interesse fuer die ganze Problemstellung geweckt. Besprechungen, die bisher lediglich das Ziel hatten, amerikanische Interessenten zu beruhigen und von einer eigenen Initiative im Rahmen des Butadien-Kautschuks moeglichst abzuhalten, haben stattgefunden mit der Standard, mit Goodrich und Goodyear. Wir stehen unter dem Eindruck, dass man die Dinge in USA nicht auf die lange Sicht mehr halten kann, ohne Gefahr zu laufen, ploetzlich vor einer unangenehmen Situation zu stehen und die volle Auswertung unserer Arbeiten und Rechte zu gefaehrden."

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" In kurzen Zügen wurde die Patentsituation in USA geschildert. Unsere Mischpolymerisat-Patente (Buna S und N) sind sehr stark und laufen noch bis zum Jahre 1950 bzw. 1951. Ferner haben wir das Reifenpatent fuer Butadien-Kautschuk. Soweit also amerikanische Versuche, die wir nun genau wissen, in sehr sorgfältiger Weise von so bedeutsamen Firmen wie Goodyear und Dow durchgefuehrt werden, sich im Rahmen des erwahnten Patentbereiches bewegen, besteht keine Gefahr.

.....

" Das amerikanische Patentgesetz kennt keine Zwangslizenzierung. Immerhin waere denkbar, dass bei der ausserordentlich grossen Bedeutung des Kautschuk-Problems fuer USA und bei den auch dort vorhandenen starken Tendenzen der Wehrhaftmachung, der Verminderung von Arbeitslosigkeit usw. ein entsprechendes Gesetz in Washington eingebracht wird. Wir behandeln daher die Lizenzantraege der amerikanischen Firmen dilatorisch, um sie nicht zu unangenehmen Massnahmen zu treiben.

.....

" Alsdann wurde die Moeglichkeit, durch strikteste Zurueckhaltung unsererseits die Entwicklung in USA abzubremsen, eingehend erortert, insbesondere im Hinblick auf eine Geheimhaltung anderen Laendern gegenueber."

Das Beweismaterial ergibt, dass die I.G., insbesondere der Angeklagte ter Meer, Antraege an die deutschen Behörden gestellt hatte, um die Erlaubnis zu erhalten, das Buna-Verfahren zu veroeffentlichen. Dies geschah jedoch in hinhaltender Weise und nicht in Uebereinstimmung mit dem angeblich auf gutem Willen und Vertrauen zwischen der I.G. und seinen auslaendischen Handelspartnern aufgebauten Verhaeltnis. Im April 1938 schrieb der Angeklagte ter Meer an Howard von der Standard Oil Company wie folgt:

" Auf Grund unserer Vereinbarung in Berlin habe ich inzwischen mit den zustaeendigen Stellen Verhandlungen angeknuepft, um in den Vereinigten Staaten hinsichtlich gummiartiger Produkte Bewegungsfreiheit zu erlangen. Wie vorausgesehen, haben sich diese Verhandlungen als ziemlich schwierig erwiesen und die diesbezieuglichen Besprechungen werden vermutlich einige Monate in Anspruch nehmen, ehe das gewuenschte Resultat erzielt wird. Ich werde es nicht unterlassen, Sie von dem Resultat zu unterrichten, wenn es so weit ist."

Am 20. April 1938 schrieb Howard an ter Meer und mahnte zur Eile:

" Meiner Ansicht nach waere es gefaehrlich, die definitiven Massnahmen hinsichtlich der Organisation unseres Geschaeftes in den Vereinigten Staaten in Zusammenarbeit mit den hiesigen Leuten, die unsere staerksten Verbuendeten waeren, ueber den naechsten Herbst hinauszuschieben - und es waere vielleicht nicht einmal zu leicht, diesen Aufschub zu erlangen." - 82 -

Im Oktober 1938 wurde den Protokollen des Reichswirtschaftsministeriums gemäss die Verwendung der patentierten Bunt-Verfahren und technischen Erfahrungen im Ausland mit gewissen Einschränkungen erlaubt, darunter war die Erlangung der Genehmigung, sie an das Ausland weiterzugeben, "falls hinsichtlich der Bunaerzeugung fundamentale neue Verfahren gefunden werden sollten...." In einem Brief von Ringer, einem leitenden Beamten der I.G. an den Angeklagten von Knieriem vom 26. September 1939, der sich auf eine gerade stattfindende Konferenz mit Howard von der Standard Oil im Haag bezog, hiess es: "Dr. ter Meer haelt es fuer notwendig, ausdruesslich darauf hinzuweisen, dass hinsichtlich Buna kein Erfahrungsaustausch stattfinden wird...."

Ein Kommentar vom 6. Juni 1944, das von dem Angeklagten von Knieriem an mehrere Leute in der I.G. gesandt wurde, einschliesslich der Angeklagten Schmitz, Labros, Bueflich und Schneider, ist besonders bedeutungsvoll. Es bezieht sich auf einen Artikel, welcher in Amerika in der "Petroleum Times" erschien, von Professor Haslam verfasst wurde und in dem erklart wird, "dass die Amerikaner von der I.G. Verfahren erhalten haben, die fuer die Kriegfuehrung von grosser Bedeutung seien.

In dem Kommentar heisst es:

"Zusammenfassend kann also fuer die Erzeugung von Flugzeugtreibstoffen gesagt werden, dass wir grundsuetzlich andere Wege gehen mussten wie die Amerikaner. Die Amerikaner verfuegen ueber Erdoele und stuetzen sich naturgemuess auf die Produkte, die bei der Verarbeitung des Erdoels anfallen. In Deutschland geht man von Kohlebasis aus und kam daher dazu, die Hydrierung von Kohle zur Erzeugung von Flugzeugtreibstoffen einzusetzen. Wie erwaehnt, sind aber Specialerfahrungen den Amerikanern nicht gegeben worden. Die eigentliche Hydrierung wurde also im Gegensatz zu den Behauptungen von Herrn Professor Haslam zwar in Deutschland, aber nicht in Amerika fuer die Erzeugung von Flugkraftstoffen eingesetzt. Im uebrigen ist festzustellen, dass gerade im Falle der Erzeugung von Flugbenzin auf Inosktanbasis den Amerikanern kaum etwas gegeben worden ist, waehrend wir sehr viel bekommen haben.

.....
 "Auf dem Buna-Gebiet liegen die Verhaeltnisse so, dass von uns niemals technische Erfahrungen an die Amerikaner gegeben worden sind oder dass eine technische Zusammenarbeit auf dem Buna-Gebiet stattgefunden haette.

.....
 "Es ist nun weiter die Tatsache zu beruecksichtigen, die begreiflicherweise in den Haslam'schen Ausfuehrungen gar nicht zum Ausdruck kommt, dass wir in Auswirkung unserer Vertraege mit den Amerikanern ueber das Gesagte hinaus noch viele ueberaus wertvolle Beitraege fuer die Synthese und Verbesserung von Treib-

stoffen und Schmierölen von ihnen bekommen haben, die uns gerade jetzt im Kriege sehr zustatten kommen und dass wir auch noch andere Vorteile von ihnen gehabt haben.

"In erster Linie ist hier folgendes zu nennen:

(1) Vor allem Treibstoffverbesserungen durch Zusatz von Bleitetraäthyl und die Herstellung dieses Produktes. Es braucht nicht besonders erwähnt zu werden, dass ohne Bleitetraäthyl die heutige Kriegsführung gar nicht denkbar wäre. Dass wir bereits seit Kriegsbeginn Bleitetraäthyl herstellen können, verdanken wir aber lediglich dem Umstande, dass die Amerikaner uns kurz vorher Erzeugungsstätten mit sämtlichen Erfahrungen schlussfertig hingestellt hatten. Es ist uns also die schwierige Entwicklungsarbeit (es sei nur an die Giftigkeit des Bleitetraäthyls erinnert, die in USA viele Todesopfer erforderte) erspart geblieben, weil wir die Erzeugung dieses Produktes mit sämtlichen Erfahrungen gesammelt hatten, ohne weiteres aufnehmen konnten.

.....
(2) Auch auf dem Schmierölgebiet hat Deutschland durch den Vertrag mit Amerika Kenntnisse von Erfahrungen bekommen, die für die heutige Kriegsführung ausserordentlich wichtig sind.

-EA-

Die Verteidigung versucht, dieses Beweismaterial als "window dressing" zu charakterisieren, das absichtlich dazu bestimmt war, die Nazi-Regierung ihrerseits zu beschuldigen. Meiner Ansicht nach ist dies eine korrekte Auswertung des Beweismaterials hinsichtlich des Verhaltens der IG in Bezug auf ihre ausländischen Partner, mit denen sie während der Kuestungsperiode und vor dem Kriege mit den Vereinigten Staaten Kartellverträge geschlossen hatten, wenn wir sagen, dass die IG einerseits den Anschein erweckte, sich an die Verträge mit ihren Partnern zu halten und andererseits mit den deutschen Behörden zusammenarbeitete hinsichtlich der Zurechnung von Informationen, die sich auf die Erfahrungen und technischen Verfahren, die unter diesen Verträgen fielen, bezogen; dass die IG Anträge an die Behörden stellte, um die Bewilligung zu erhalten, diese Verträge zu erfüllen, aber dies auf eine sehr zögernde Art und Weise tat, dass zu dem grossen Nachteil der anderen Mächte und zum Vorteil Deutschlands eine Verzögerung eintrat. Die Dokumente der IG, die aus dieser Zeit stammen und die Dokumente der deutschen Regierungstellen, die als Beweismaterial vorgelegt wurden, enthüllen ein Verhalten seitens der IG, das durch Doppelsinnigkeit charakterisiert ist und durch Mangel an Offenheit und Aufrichtigkeit, die im Verhältnis zwischen den ausländischen Partnern der IG erwartet wurden. Solch ein Verhalten ist anscheinend geplant worden, um die Aufrüstung von Deutschlands Feinden zur Vorbereitung auf den Angriff der Nazis und zu Widerstandsleistung zu verzögern und es hat ohne Zweifel zu diesem Erfolg beigetragen.

(g) Propaganda, Nachrichten- und Spionagetätigkeiten...

Die weit ausgedehnte Organisation der IG war eine ideale Einrichtung, um die Nazi-Propaganda durch die ganze Welt zu tragen. Bald nach der Machtübernahme durch die Nazis im Jahre 1933 ergriffen die leitenden Beamten der IG die Initiative, um ein ausgedehntes Programm aufzustellen. Der Angeklagte Ilgen organisierte einen Kreis von Wirtschaftsführern, der mit dem Propagandaministerium zusammenarbeitete. Diese Organisation nahm es auf sich, darnach zu sehen, dass "die Lage im 'neuen Deutschland' sich in einem besseren Lichte im Auslande zeige. Der Angeklagte Gattineau sagte bezuglich dessen Tätigkeit:

"... Es war auch die Aufgabe des Kreises der Wirtschaftsführer, irgendwelche ungeschickte Aktionen des Propagandaministeriums zu verhindern und an ihre Stelle bessere zu setzen. Der Kreis der

Wirtschaftsführer war dann besonders gut qualifiziert, da seine Mitglieder die Lage im Auslande gut kannten; sie hatten gute Beziehungen im Auslande und kannten die Mentalität der betreffenden Länder. Die Entwicklung der Dinge in Deutschland hatte die Exportpolitik in einem grossen Ausmasse gestört und die Vertreter der Industrie wünschten nun dieser ungünstigen Entwicklung durch zweckmässige Propaganda entgegenzutreten. Man versuchte, die Aufmerksamkeit von politischen Fragen auf Kulturfragen zu lenken. Dem Propagandaministerium war diese Entwicklung sehr erwünscht, da auf diese Weise die Beziehungen der Industrie mit dem Auslande fuer seine Zwecke verwandt werden konnten. Ueberdies war es vorteilhaft, Leute zu verwenden, die nicht als bezahlte Propagandisten bekannt waren. Diese Propagandataetigkeit wurde nicht vom Propagandaministerium finanziert, sondern durch die Firmen der betreffenden Leiter der Unterabteilungen. Auf diese Weise bearbeitete ich Skandinavien und Dr. Max Ilgner Nord-Amerika. Unter anderem wurden auch Reisen auslaendischer Zeitungsleute nach Deutschland finanziert. Die Verhandlungen mit und die Bezahlung des Propagandisten Ivy Lee fanden auch waehrend dieses Zeitraumes statt. Die Zahlungen fuer diesen Zweck wurden von Dr. Ilgner mit der Zentral-Finanzverwaltung verrechnet und Geheimrat Schnitz wurde darueber informiert. Dr. Ilgners Bureau wurde als Geschaeftsbureau des Kreises der Wirtschaftsführer benutzt. Andere Propagandaorganisationen, die auf Ilgners Initiative hin gegruendet wurden, waren die Karl-Schurz-Vereinigung und der Mitteleuropaeische Wirtschaftstag. Dr. Ilgners Taetigkeit war auch ein Ausdruck seiner Bestrebungen, sich dem neuen an der Macht befindlichen Bureau naeher zu setzen, um so eine bedeutende Stellung zu erhalten. Er war in der Lage, dies zu tun, da er als Leiter der NW 7-Organisation der IG einen Einblick in alle Geschaeftsaefen der IG hatte, und so anderen Leuten und anderen Behoerden dienlich sein konnte."

Lehrere Angestellte wurden in Stellungen in Propagandaorganisationen berufen. Die Ernennung der Angestellten Mann, von Schnitzler und Gattmann in den Presse-Ausschuss der deutschen Wirtschaft wurde bei einer Sitzung im Propagandaministerium am 30. Oktober 1933, der fuehrende Marx und prominente Vertreter der Partei und Industrie beiwohnten, verkundet. Funk, der den Vorsitz des Ausschusses uebernommen hatte und Goebbels, der die Teilnehmer aufforderte, "im Geiste nationalsozialistischer Ueberzeugung und nationalsozialistischer Staerke fortzuschreiten", hielten eine Ansprache an die Versammlung. Im Jahre 1934 wurde der Angestellte von Schnitzler zum Mitglied des Aufsichtsrates der ALA, einer Propagandastelle, die unter der Aufsicht des Staates und der Partei errichtet wurde, ernannt.

Bei der Durchfuhrung des Propagandaprogrammes sandte der Angestellte Mann ein Rundschreiben an alle auslaendischen Bayer-Vertretungen und beschrieb die Leistungen der Nazi-Regierung seit ihrer Machtuebernahme und das "Wunder der Geburt der deutschen Nation"; in diesem Rundschreiben erschienen die folgenden Darlegungen:

"Angesichts der Boykott-Propaganda im Auslande, die noch immer bemerkbar ist, obwohl sie betraechtlich abgenommen hat, wuenschen wir

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Ihnen besonders in allen Einzelheiten die wirklichen Bedingungen, die unter der neuen nationalsozialistischen Regierung in Deutschland herrschen, zu beschreiben. Wir wollen der Hoffnung Ausdruck verleihen, dass dieser Bericht Sie mit wichtigen Angaben versehen wird, die Sie in den Stand setzen werden, uns in unserm Kampf fuer die deutsche Rechtsauffassung zu unterstützen. Wir bitten Sie ausdrücklich, dass Sie zusammen mit Ihren Mitarbeitern und Ihrem Personal in der Ihnen geeignet erscheinenden Weise von diesen Angaben Gebrauch machen werden, damit alle Mitarbeiter in unserm pharmazeutischen Geschäft mit diesen allgemeinen wirtschaftlichen und politischen Begriffen vertraut werden."

Auf diese Art und Weise unternahm es die IG, ihre Stellen und ihr Personal im Ausland zu veranlassen, eine gunstige Stimmung hinsichtlich der Nazi-Regierung herbeizufuhren, und auf diese Weise der Forderung der Ziele des Nazi-Programms zu dienen und sie zu unterstützen.

Bei dieser Sitzung des Kaufmannischen Ausschusses der IG vom 10. September 1937, der die Angeklagten Schnitz, von Schnitzler, Reoffinger, Ilgner, Mann und Oster bewohnten, wurde die Organisation der Auslandsdeutschen (A.O.) erortert. Das Protokoll dieser Sitzung legt dar:

"Man stimmt allgemein ueberein, dass unter gar keinen Umstanden jemand unseren Stellen im Auslande zugewiesen werden sollte, der nicht Mitglied der Deutschen Arbeitsfront ist und dessen positive Einstellung zu der neuen Aera ueber jeden Zweifel hinaus klargestellt ist. Herren, die ins Ausland gesandt werden, sollen sich vor Augen halten, dass ihre besondere Pflicht darin besteht, das nationalsozialistische Deutschland zu vertreten. Bei ihrem Eintreffen sollen sie besonders daran erinnert werden, dass sie mit den Orts- und Bezirkegruppen (der Auslandsdeutschen) in Verbindung treten sollen und dass man von ihnen erwartet, dass sie regelmassig an deren Sitzungen, sowie an denen der Arbeitsfront teilnehmen. Die Verkaufsgemeinschaften sollen auch dafuer Sorge tragen, dass ihre Agenten mit nationalsozialistischer Literatur ausreichend versorgt werden.

"Die Mitarbeit in der IG muss besser organisiert werden..."

Bei einer Sitzung des Direktoriums, die in Leverkusen am 16. Februar 1938 stattfand, und bei der der Angeklagte Mann den Vorsitz innehatte, bestaetigte dieser die wohlwollende Haltung. Im Sitzungsprotokoll heisst es:

"Der Vorsitzende weist auf unsere unbestreitbare Uebereinstimmung mit der nationalsozialistischen Auffassung in der Vereinfachung der 'BAYER'-Pharmazeutika und Schaedlingsbekämpfungsmittel hin; darueber hinaus ersucht er, die Leiter der Ausstellungen, es als ihre selbstverstaendliche Pflicht anzusehen, in einer feinen und verstaendnisvollen Art und Weise mit den Partei-Funktionaeren, mit der DAF usw. zusammenzuarbeiten. Dehingehende Befehle sind den fuehrenden deutschen Herren zu geben, damit bei deren Durchfuehrung kein Missverstaendnis entsteht."

In Verfolg dieser Anweisungen arbeiteten die Vertreter der IG in Auslande aktiv mit den Auslandsorganisationen der NSDAP zusammen. Diese Vertreter sandten an die IG Berichte ueber die verschiedenen Projekte und Schwen,

die von der IG ratifiziert und bewilligt wurden.

Während einer Reise nach Südamerika im Jahre 1936 gelang es dem Angeklagten Ilgner in besonders wirksamer Weise, ein Programm zur "Abwehr des Anwachsens anti-deutscher Gefühle in Südamerika" zu entwickeln, wie dies von einem Vertreter in einem Brief vom 27. Januar 1937 erwähnt wird. Das Programm schloss die Verteilung von Propagandamaterial durch sudamerikanische Handelskammern, durch Zweigstellen deutscher Banken und durch Vertreter der deutschen Wirtschaft ein. Andere beabsichtigte Mittel waren die Verwendung von Filmen, von Propagandaschulen, des Radios, der Austausch von Studenten, Geschäftsführern, Wissenschaftlern und Künstlern, all dies als Mittel zur Durchführung "einer wichtigen Propagandatätigkeit fuer Deutschland." Die IG gewährte Schulen und Kulturinstituten im Auslande und auch Handelskammern, die das Propagandaprogramm unterstützten, finanzielle Hilfe.

Die Tätigkeit der IG bezüglich der Ereignisse in der Tschechoslowakei im Jahre 1938 ist, wie aus den Protokollen einer Konferenz ueber die Tschechoslowakei, die am 17. Mai 1938 in Berlin, Unter den Linden 82, abgehalten wurde, von besonderer Bedeutung. In dem Sitzungsprotokoll heisst es:

"Seibohm gab einen einleitenden Bericht. Er erklarte, dass nach der Einverleibung Oesterreichs in das Reich in den sudetendeutschen Teilen des Landes die Spannung gewachsen sei und dass in allen Schichten der Bevölkerung, die politischen und industriellen Organisationen nach deutschem Muster und den Grundsätzen des Nationalsozialismus neugebildet wurden.

...
"Es erschien ratsam, sofort und mit grosser Beschleunigung damit zu beginnen, Sudetendeutsche zu beschaeftigen und sie bei der IG auszubilden, um Reserven zu bilden, soweit sie in Zukunft in der Tschechoslowakei beschaeftigt werden sollen.

...
"Die Nachrichtenstelle hatte seit einiger Zeit versucht, Artikel von allgemeinem und besonderen Interesse in sudetendeutschen Zeitungen zu veroeffentlichen und hatte sich zu diesem Zwecke der Wirtschafts- und Zeitungsdienset G.m.b.H. bedient, einer Gesellschaft, die von den Deutschen Behoerden unterstuetzt wird. Diese Artikel sollten einer Vorbereitung fuer eine allmaehliche finanzielle Staerkung der sudetendeutschen Zeitungen durch Inserate dienen.

"Vorschlag: Die Nachrichtenstelle wurde in Verbindung mit den Verkaufsgemeinschaften die zu fuerdernden Zeitungen genau angegeben, sofern sie zur Ankaendigung unserer Verkaufsprodukte geeignet waren. Die Zeitungen sollten dann von der Nachrichtenstelle mit Artikeln beliefert werden und sollten Inserate zur Einrueckung erhalten, um sie finanziell zu unterstuetzen.

"Uebordies sollten Zeitungen, die von politischer Bedeutung waren und Zeitschriften, die Artikel und Berichte, die der IG im allgemeinen wohlwollend gegenueberstanden, ohne tatsaechlich fuer unsere Produkte Reklame zu machen, dadurch unterstuetzt werden, dass sie moeglichst regelmassig Artikel zur Veroeffentlichung erhalten."

Ein Bericht ueber diese Konferenz wurde bei einer Sitzung des Kaufmannischen Ausschusses am 24. Mai 1938, bei der die Angeklagten Schmitz, von Schnitzler, Heefliger, Ilgner, Gattinoni und Kugler zugegen waren, an dessen Mitglieder erstattet und zur gleichen Zeit wurden die Protokolle dieser Konferenz an die Mitglieder des Kaufmannischen Ausschusses verteilt. Diese Protokolle zeigen, dass eine Kenntnis ueber die moeglichen Nazi-Plano bezueglich der Tschechoslowakei bestand und auch, dass die IG ihre finanzielle Macht in dem Bestreben, die oeffentliche Meinung dieses Landes in vollkommener Harmonie mit der von den Nazis gefoerdderten Agitation zu beeinflussen, verwandte.

Auf diese Weise hat es den Anschein, dass die IG durch die energische Verwendung ihrer auslaendischen Vertreter und Beziehungen und die Macht ihres finanziellen Hintergrundes ein aktives Instrument zur Foerderung des Nazi-Propagendaprogrammes in den verschiedensten Richtungen war und willig an den verschiedensten Formen der Nazi-Intrigo mitarbeitete.

Von noch grosserer Bedeutung fuer das Nazi-Programm war die energische Initiative der IG durch die Verwendung ihrer auslaendischen Verbindungen im Nachrichten- und Spionagewesen. Die IG erbeitete engstens mit dem Nachrichtenwesen der Wehrmacht, der sogenannten Abwehr, zusammen und finanzierte auslaendische Stellen, die in Dienste dieser Behoerde standen. Sowohl vor als auch waehrend des Krieges war die IG eifrigt bestrebt, die Wehrmacht mit militaerisch wichtigen Informationen zu versorgen und solche fuer sie zu erlangen. Die Zentral-Finanzverwaltung (ZEFV), gewoehnlich unter dem Namen "Berlin NW 7" bekannt, wurde von dem Angeklagten Ilgner im Jahre 1927 gegruendet und wurde allmaehlich durch die Eingliederung der VWI (Volkswirtschaftliche Forschungsstelle), der WFO (Wirtschaftspolitischen Abteilung), die unter Leitung des Angeklagten Gattinoni stand, und des BdKA (Bureau des Kaufmannischen Ausschusses) erweitert. Diese Organisation sammelte und verfasste auf Grund ihrer unvergleichlichen Informationsquellen in aller Welt genaueste Informationen in den verschiedensten Laendern bezueglich der wichtigsten Industriezweige und besonderer Unternehmen einschliesslich der Aufgaben des Unternehmens, des finanziellen Aufbaues, der Erzeugnisse, der Leistungsfahigkeit und der Lage. Das so gesammelte Material uebertraf hoechstwahrscheinlich

des jeder anderen Einrichtung in Deutschland an Ausmass und Qualitat und wurde den verschiedenen Regierungstellen regelmassig zur Verfuugung gestellt. Auf Ersuchen des militairischen Wirtschafts- und Ruestungsstabes unternahm die VOWI oft Nachforschungen im Auslande. Der Zeuge Bannert sagte:

"Als Zeuge dafuer moechte ich die Untersuchungen erwahnen, die im Herbst 1939 hinsichtlich der Toluol-Kapazitat in England und Frankreich durchgefuehrt wurden und das anfangs 1940 begonnene Studium hinsichtlich der Auswirkung der Sperrung der Futtereinfuhr auf die deutsche Landwirtschaft. Damals wurden wir auch um Bilder und Pläne der industriellen Werke in den feindlichen Laendern ersucht. Da wir diese nicht besaessen, mussten wir uns darauf beschraenken Photoskopie der selten veroeffentlichten Zeichnungen und Photographien in den verschiedenen technischen Veroeffentlichungen zu machen und diese dem Wehrwirtschafts- und Ruestungsstab zur Verfuugung zu stellen. Ich erinnere mich, dass wir einmal waehrend des Krieges ersucht wurden an Hand einer aus der Vogelperspektive gemachten Photographie die Anlage der Clifton Magnesium Werke in England als Vorbereitung fuer einen Bombenangriff zu erklæren. Wir leiteten den Rat eines Herrn aus Bitterfeld weiter, der die Anlage dieser Werke kannte."

General Bohnemann sagte mit Bezug auf die IG als Informationsquelle:

"Eine unserer anderen Informationsquellen war die volkswirtschaftliche Abteilung der IG. ... die volkswirtschaftliche Abteilung der IG arbeitete mit uns in der Weise zusammen, dass sie ihre Arbeiten, die Berichte ueber Laender, genaue Berichte ueber Rohmaterialien, Entwicklungsaussichten, uns zur Verfuugung stellte. Da die volkswirtschaftliche Abteilung der IG einen ausgezeichneten und hochqualifizierten Mitgliederstab hatte, richteten wir auch an dieses Buero Anfragen ueber Dinge, von denen wir annahmen, dass sie darueber unterrichtet waren. (Anfragen waehrend des Krieges ueber Amerikas Stickstoff Produktion etc.)".

Die Entzuehlung von Informationen durch die IG an die Wehrmacht waehrend der Monate, die dem wohlueberdachten Angriff auf Polen vorangingen, ist bedeutungsvoll. Im Wochenbericht des Wehrwirtschaftsstabes erscheinen die folgenden Punkte:

5. - 7. Maerz: Besprechung mit Dr. Fernau von der IG ueber die englischen und franzoesischen Oelvorræte.
14. April: ... Beginn der Arbeit der IG ueber "rumaenisches Mineraloel" und "Grossdeutschland und die Wirtschaftsgebiete des bœhmisch-maehrischen Protektorates und der Tschechoslowakei."
14. Juni: Besprechung mit Dr. Fernau von der IG. Ueberreichung des Aufsatzes ueber Zypern und Eroerterung der Verwendung und Auswertung der IG-Farben-Akten und Bibliothek. Laut Fernaus Erklaerung stehen die Akten und die Bibliothek dem NSStb jederzeit zur Verfuugung.
24. August: Besprechung mit dem Fuehrer der Wirtschaftsabteilung der IG, Dr. Reithinger und den Doktoren John und Fernau von der IG, bezueglich der beabsichtigten engeren Zusammenarbeit.

Die IG stellte alle ihre Archive und ihre Literatur zur Benützung zur Verfügung und erklärte sich weiterhin bereit, vorgelegte Fragen zu beantworten, die so kurz und präzise wie möglich zu halten sind. Schriftliche Anfragen sollen durch den Amt der Wehrwirtschaftsgruppe Nr. 8 an das Büro, das die Tätigkeit der IG kontrolliert, gemacht werden.

25. August:

... Besprechung mit Dr. von der Hude, Kommissar für Abwehr der IG, über den Bereich der Tätigkeit Dr. Krugers, des Betriebsführers der IG, der zu dem WStb zur Verstärkung der Mobilisierung kam.

25. August:

... Eine Besprechung im Büro der Wehrwirtschaftsgruppe Nr. 8. Hauptmann Dose, Dr. Holzhauer, mit Dr. Reithinger, Dr. John, Dr. Fernus Vorschlag, die Wirtschaftsabteilung, zusammen mit den Archivaren der IG für die Zwecke des WStb's zu verwenden, wurde von Hauptmann Dose angenommen. Er suchte um kurze Beschreibung der Lage Polens, hinsichtlich der Rohmaterialvorräte und eine Beschreibung der verstärkten Sicherheit des Reiches gegen eine Blockade durch den Berlin-Moskau-Nichtangriffspakt. (Beschreibungen wurden versprochen)."

Aus dem Protokoll der Sitzung des Kaufmännischen Ausschusses der IG vom 12. November 1940, der die Angehörigen Schmitz, von Schnitzler, Haefliger, Igner, von Knorin, Eugler, Mann, ter Meer und Oster bewohnten, ist zu ersichen, dass von Schnitzler einen Bericht über die "in jüngster Zeit von der Reichswirtschaftsabteilung für verschiedene Regierungs- und militärische Stellen vorbereitete Arbeit" erstattete. Das Protokoll lautet:

"... Während der darauffolgenden Diskussion wiederholte der Kaufmännische Ausschuss seinen Wunsch, dass die Reichswirtschaftsabteilung diese Arbeit in enger Zusammenarbeit mit den Verkaufsgemeinschaften und den anderen in Betracht kommenden IG-Stellen vorbereiten sollten."

Am 2. März 1940 erstattete die VOWI einen Bericht an das Wehrwirtschaftsamt und gab technische Informationen über Sprengstoffe und Mittel für die chemische Kriegsführung einschliesslich einer Übersicht über die Erzeugungsmöglichkeiten in den Vereinigten Staaten.

Die amerikanische Gesellschaft, Chemnyco, Inc., eine von IG-Personal kontrollierte Gesellschaft, wurde in grosser Masse als Quelle für wertvolle Informationen benutzt. Der United States Department of Justice hatte Veranlassung, die Tätigkeit dieser Chemnyco Company während des Krieges zu untersuchen und erstattete über das Ergebnis einen offiziellen Bericht. In diesem Bericht heisst es:

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"Die Chemnyce Inc., die amerikanische Zweigstelle fuer das Nachrichtenwesen der IG ist ein Beispiel fuer die Einfachheit, Wirksamkeit und Vollstaendigkeit der deutschen Methoden zur Sammlung wirtschaftlicher Informationen. Die Chemnyce bildet ein vorzugliches Beispiel fuer die Art und Weise, wie ein Land mit einer Kriegswirtschaft ein gewoehnliches kaufmaennisches Unternehmen verwenden kann..."

Es kann kein Zweifel darueber bestehen, dass die IG die Verbindungen, die sie in der ganzen Welt hatte, dazu benutzte, militaerisch wichtige Informationen zu erlangen und dass sie diese Informationen in steigender Masse an die Wehrmacht weitergab. Die IG leistete in dieser Hinsicht bei der Vorbereitung und Fuehrung der von Deutschland gefuehrten Angriffskriege ungeheure Hilfe.

(h) Die Schritte, die in Erwartung eines Krieges zur Sicherung der Auslandsinteressen der IG durch Fernung unternommen wurden, und der Entwurf von Plänen fuer eine wirtschaftliche Beherrschung Europas auf den Gebiete der Chemie.

In Juli oder August 1938 begannen sich die fuehrenden Beamten der IG ernstlich mit der Frage der Sicherstellung ihrer Guthaben im Auslande im Kriegsfall zu beschaeftigen. Gemass der Aussage des Zeugen Kuemper, der ein Mitglied des juristischen Stabes der IG war, geschah dies "als die dunklen Wolken, genannt Sudetenland-Krise, schon am Horizont erschienen." Demnals waren schon verschiedene Ereignisse eingetroffen, die mit dem offentlig verkundeten Programm Hitlers uebereinstimmten, das mit den Worten des IMG, die unmissverstaendliche Absicht eines Angriffes erkennen liess. Der Vertrag von Versailles war von der Nazi-Regierung aufgekuenndigt worden; der Aufbau einer militaerischen Luftwaffe war von Goering vor mehr als drei Jahren verkundet worden; das Heer war schon seit mehr als drei Jahren seit der Verkueundung der Militaerdienstpflicht in Jahre 1935 aufgestellt worden; in Missachtung des Versailler Vertrages marschierten deutsche Truppen in die entmilitarisierte Zone des Rheinlandes im Jahre 1936 ein; "am 12. Maerz 1938 marschierten deutsche Truppen beim Morgengrauen in Oesterreich ein," wie sich der IMG ausdrueckte. Der Zeuge Kuemper erklarte:

"Es war keine Rede von einem Angriffskrieg, es bestand ein allgemeines Gefuehl, dass sich die allgemeine politische Lage veraesterte und nicht nur in der IG, sondern in der ganzen deutschen Oeffentlichkeit wurde allgemein ueber die Moeglichkeit eines Krieges gesprochen; um was fuer einen Krieg es sich handeln sollte, wurde nicht erortert."

Es war natuerlich, dass die deutsche Oeffentlichkeit im Hinblick auf die offentliglichen Ereignisse waehrend der letzten Jahre, wie sie oben dargestellt sind, von Kriege sprach. Es war klar, dass nicht ausdruecklich darauf diskutiert wurde, ob es ein Angriffskrieg oder ein Verteidigungskrieg sein wuerde. Die "Moeglichkeit eines Krieges" lag angesichts der wiederholten von der Nazi-Regierung begangenen Angriffshandlungen vor. Vermuenftige Menschen waren nur dann logisch, wenn sie die Aussicht eines Krieges als Ergebnis der Politik, die betrieben wurde, ansahen, und auf eine bedachtsame Art und Weise alles taten, was in ihrer Macht lag, um im Falle eines Krieges ihre Interessen im Auslande zu sichern. Solch ein Verhalten stand im Einklang mit der vorausschauenden Intelligenz.

die die Beamten der IG bei der Leitung und Föhrung der IG-Unternehmen immer an den Tag gelegt hatten. Natürlich stellte dieses Verhalten selbst noch nicht die Begabung von Verbrechen gegen den Frieden dar, aber es ist insofern bedeutungsvoll, als es zeigt, wie ernst die föhrenden Beamten der IG die Lage betrachteten, als sie die Pläne für die Sicherung der Auslandsinteressen ihres Konzerns festzulegen begannen. Dies zeigt eine realistische Einschätzung der Außenpolitik Deutschlands und ein Verständnis für die bevorstehende Möglichkeit eines Krieges.

Innerhalb von zwei Tagen, nachdem deutsche Truppen im Widerspruch zu dem in München im September 1938 abgeschlossenen Abkommen Böhmen und Mähren besetzt hatten, traf sich der Rechtsausschuss der IG unter dem Vorsitz des Angeklagten von Emmerich am 17. März 1939 in Berlin, um das Problem des Schutzes der Guthaben der IG im Auslande "in Falle eines Krieges" zu erörtern. Das Protokoll dieser Sitzung zeigt, dass dieser Rechtsausschuss zwecks Schutzes der IG-Guthaben vor Beschlagnahme in Falle eines Krieges auf dem Wege der Beratung hinsichtlich der zu ergreifenden Schritte bestimmte Vorschläge machte. Im Protokoll heisst es:

...
 "So) Wenn die Aktien oder sonstige Beteiligungen tatsächlich im Besitze eines Neutralen sind, der in einem neutralen Lande lebt, so sind alle wirtschaftlichen Kriegsmassnahmen des Feindes wirkungslos; selbst eine Option zugunsten der IG wird unberührt davon bleiben. Eine einzige Ausnahme entsteht, wenn der Neutrale auf die "Schwarze Liste" gesetzt wird, da dann die Liquidierung der Aktien oder sonstiger Beteiligungen angeordnet werden kann. Die Engländer machten während des Krieges von der Ermächtigung, Guthaben von auf der "Schwarzen Liste" stehenden Neutralen in England zu liquidieren, nur sparsamen Gebrauch, da solch ein Vorgehen regelmässig Auseinandersetzungen mit der Regierung des Neutralen zur Folge hatte, Auseinandersetzungen, die meistens in keinem Verhältnis zu den bei solch einer Liquidierung erreichten Resultaten standen.

"Diese Übersicht zeigt, dass das Risiko der Beschlagnahme von Verkaufsorganisationen in Falle eines Krieges auf das Minimum herabgedrückt wird, wenn die Inhaber von Aktien oder sonstigen Beteiligungen in neutralen Ländern wohnende Neutrale sind. Eine solche Verteilung von Aktienpaketen oder anderen Beteiligungen hat weiterhin den Vorteil, Konflikten vorzubeugen, die das Gewissen eines feindlichen Auslanders, der unvermeidlich zwischen seinen patriotischen Gefühlen und seiner Loyalität zu der IG hin und her gerissen wird, belasten würden. Ein weiterer Vorteil besteht darin, dass der Neutrale im Kriegsfall gewöhnlich seine Bewegungsfreiheit beibehält, während feindliche Ausländer häufig in den verschiedensten Eigenschaften in die Dienste ihres Landes berufen worden und daher nicht mehr länger geschäftliche Angelegenheiten wahrnehmen können.

...
 Soweit es möglich ist, soll jedoch unter gebührender Berücksichtigung der anderen Interessen, auf die wir Rücksicht nehmen müssen,

der neutrale Einfluss in unseren ausländischen Stellen durch die Übertragung von Aktien oder ähnlichen Beteiligungen an neutrale Inhaber gestärkt werden. Wenn dies nicht möglich ist, so scheint es ratsam, die Aktien oder ähnliche Beteiligungen an solche Parteien zu übertragen, die Bürger des betreffenden Landes sind und fuer Optionen auf diese Aktien oder ähnliche Beteiligungen nicht direkt zugunsten der IG Vorsorge zu treffen, sondern fuer die Option irgendeiner neutralen Partei mit schliesslichem Optionsrecht fuer die IG."

Die Ergreifung dieser Massnahmen wurde in Falle eines Krieges Schutz gegen Beschlagnahme bieten, obwohl dieser Schutz vielleicht nicht ausreichend ist."

Daraus geht ein eingehendes und sorgfaeltiges Studium des ganzen Problems des Schutzes auslaendischer Guthaben in Falle eines Krieges mit dem Zwecke, das Risiko eines Verlustes auf ein Minimum herabzudruecken, hervor.

Ein Auszug aus dem Protokoll dieser Sitzung wurde am 6. Juni 1939 an verschiedene leitende Beamte der IG, einschliesslich der Angeklaigten von Schnitzler, der Heer und Kugler, versandt. In den Beweisunterlagen befindet sich ein Memorandum vom 22. Juli 1939 mit der Ueberschrift: "Sicherheitsmassnahmen fuer den Kriegsfall", das sich besonders auf die Beteiligungen der IG in Belgien, Frankreich, Aegypten, England, den Vereinigten Staaten von Amerika, Kanada, Australien und Neu-Seeland bezieht. Dies war ein Memorandum der Rechtsabteilung Farbstoffe.

Wahrend der Sommermonate des Jahres 1939, und zwar vor Deutschlands Einfall in Polen, fuhrte die IG einen ausgedehnten Briefwechsel mit dem Reichswirtschaftsministerium hinsichtlich der Methode, Guthaben im Auslande zu tarnen. In einem Brief vom 24. Juli 1939, der IG an das Reichswirtschaftsministerium erscheinen folgende bedeutsame Erklarungen:

"Die von uns laufend durchgefuehrte Ueberpruefung der rechtlichen Konstruktion unseres auslaendischen Verkaufesapparates und die Notwendigkeit, im Hinblick auf die politischen Spannungen den Schutz unserer Interessen fuer den Fall eines Konflikts mit anderen Maechten unser besonderes Augenmerk zuzuwenden, haben uns zu der Ueberzeugung gebracht, dass in den besonders gefaehrdeten Laendern, insbesondere dem englischen Egipten, auch diese Konstruktion nicht mehr ausreichende Sicherheit bietet.

"Aus diesen Gruenden sind wir zu der Ueberzeugung gelangt, dass ein wirklicher Schutz unserer auslaendischen Verkaufesgesellschaften gegen die Gefahr einer Kriegsbeschlagnahme nur dadurch erreicht werden kann, dass wir auf rechtliche Bindungen, mittelbarer oder unmittelbarer Art, zwischen den Anteilseignern und uns, die uns rechtlich die Moeglichkeit eines Zugriffs auf die Gesellschaften unserer Verkaufesgesellschaften geben, verzichten und diese rechtlichen Beziehungen dadurch ersetzen muessen, dass wir den Zugriff auf diese Werte, solchen neutralen Stellen einräumen,

die auf Grund langjähriger, zum Teil jahrzehntelanger menschlicher und persönlicher Beziehungen die absolute Gewähr dafür geben, dass sie trotz ihrer absoluten Unabhängigkeit und Neutralität neben diese Werte niemals anders als in einer unsere Interessen voll berücksichtigenden Weise verfügen werden. Diese Gewähr besteht auch für den Fall, dass durch irgendwelche zur Zeit nicht vorhersehbare Komplikationen, die Möglichkeit einer Abstimmung mit uns, die normalerweise auf Grund unserer freundschaftlichen Beziehungen selbstverständlich ist, technisch oder politisch vorübergehend unmöglich gemacht werden sollte. Der Entschluss, diesen neuen Weg zu beschreiten, ist uns wesentlich erleichtert worden durch die Erfahrungen, die wir während des Krieges gemacht haben. Wir mochten als Beispiel dafür, dass eine wirkliche Sicherung unserer Interessen nur in der menschlichen Vertrauenswürdigkeit unserer ausländischen Geschäftsfreunde und nicht in irgendwelchen rechtlichen Verpflichtungen liegen kann, lediglich folgenden Fall anführen:

"Nach Eintritt der Vereinigten Staaten in den Weltkrieg wurden die wesentlichen Vermögenswerte unserer Grundergesellschaften in den Vereinigten Staaten beschlagnahmt, und von amerikanischen Behörden grossenteils an Konkurrenzunternehmen veräußert, wodurch überhaupt erst die Grundlage für die Entwicklung der heutigen amerikanischen chemischen Industrie geschaffen wurde. In dieser Situation hat der Vertreter der Hoechst Farbwerke, General H.A. Metz, in voller Wahrung seiner Pflichten als amerikanischer Staatsbürger, unter Einsatz seines gesamten persönlichen Vermögens, ohne jeden Auftrag und ohne jegliche diesbezügliche rechtliche Verpflichtung, die Vermögenswerte, insbesondere den Patentbesitz der Farbwerke, von amerikanischen Sequester aufgekauft und ihn nach Beendigung des Krieges gegen Ersatz seiner Auslagen unserer Grunderfirma wieder zur Verfügung gestellt. In der damaligen Situation, in der nach englisch-amerikanischem Kriegerecht alle mit dem Feind etwa unterhaltenen vertraglichen Beziehungen ja durch den Kriegseintritt automatisch aufgehoben waren, entschied lediglich die Persönlichkeit."

In einer Mitteilung vom 26. September 1940 an das Reichswirtschaftsministerium schrieb die IG:

"... Erst während der letzten Jahre, seit ungefähr 1937, als die Gefahr eines neuen Konfliktes mehr und mehr in Erscheinung trat, bemühten wir uns, unsere Tarnungsmaßnahmen zu verbessern, besonders in den gefährdeten Ländern und zwar auf solche Art und Weise, dass sie selbst in Falle eines bewaffneten Konfliktes sich als ausreichend erweisen und wenigstens eine sofortige Beschlagnahme verhindern würden."

Dieser Brief wurde von der Zentral-Finanz-Abteilung der IG in Berlin geschrieben und zwar in Verfolg von Besprechungen zur Verbesserung des Systems der Tarnung verschiedener Verkaufsgesellschaften der IG in Latein-Amerika, über die die Angeklagten von Schnitzler und Ilgner in allgemeinen informiert waren.

Obwohl noch andere Überlegungen die Tarnung von Beteiligungen in Auslande geboten erscheinen liessen, so zeigt das Beweismaterial doch klar, dass besonders in den Jahren 1938 und 1939 die Aussicht auf den Krieg der treibende Grund war. So sagte Kuepper von der Rechtsabteilung der IG, der vor dem Gerichtshof persönlich als Zeuge erschien, in

einen Memorandum vom 2. Oktober 1940:

"Nach dem siegreichen Ende des Krieges kann eine lange politische Befriedung erwartet werden. Aber bestimmte Möglichkeiten koennen nicht mehr ein Grund fuer die Farnung sein, angesichts der entgegenstehenden Gruende, besonders politischer Art."

In Verfolg der Politik, ihre Guthaben im Auslande zu ternon, griff die IG zu Scheintransaktionen. Ein ausgezeichnetes Beispiel der angewandten Methoden findet sich in der Urteilsbegrundung im Prozess Standard Oil Co. gegen Markham 64 F Suppl 656 (District Court, S.D. New York) und Standard Oil Company gegen Clerk 163 F (2d) 917 (Circuit Court of Appeals, Second Circuit, September 22, 1947), worin diese bedeutenden Bundesgerichtshoefe der Vereinigten Staaten entschieden, dass die auf der Haager Konferenz im September 1939 abgeschlossenen Transaktionen zwischen Vertretern der IG und der Standard Oil (Jersey-Gruppe genannt) "Schein-Transaktionen waren, die bestimmt waren, den Anschein zu erwecken, als ob Jersey Eigentumsrechte haette, die nichtsdestoweniger von den Parteien weiterhin als der IG gehoerig angesehen wurden." Die Gerichtshoefe der Vereinigten Staaten, auf die hier Bezug genommen ist, erkannten in einzelnen:

"Die Vertragspartner beabsichtigten, dass nach Beendigung des Krieges und des sich daraus ergebenden Verschwindens der Gefahr einer Eigentumskontrolle durch die amerikanische Regierung das Eigentum der IG formell zurueckerstattet werden wuerde und die vor dem Kriege bestehenden Beziehungen wieder aufgenommen wurden."

(i) Die Festigkeit der IG zur Erlangung der Herrschaft ueber die chemische Industrie in den besetzten Gebieten.

Das in Urteil des Gerichtshofes in Verbindung mit Anklagepunkt II erorterte Beweismaterial zeigt in Einzelnen die Festigkeit der IG bei der Ausbeutung und Spoliation der chemischen Industrie in den besetzten Gebieten. Die "Kontinuitat" der IG fuer die chemische Industrie ist bezeichnend fuer die Initiative, die die IG bei der Planung zur Erlangung der Kontrolle ueber die Schmelzindustrie gezeigt hat, in dem Masse, in dem zusatzliches Gebiet unter das Joch der Nazis fiel.

Im Juli 1938 verfasste die Volkswirtschaftliche Abteilung der IG (VWI) einen sehr eingehenden Bericht ueber den Aussiger Verein in Böhmen. Am 21. September 1938 schrieb der Kaufmannische Ausschuss der IG an alle Vorstandsmitglieder der IG, bezog sich auf eine Erortierung in der Vorstandssitzung vom 16. September 1938 in Frankfurt und fugte eine vorlaufige Erklarung ueber die "Lage der chemischen Industrie in der Tschechoslowakei" bei und lenkte die Aufmerksamkeit auf einen im Juli verfassten Bericht, "der von der Wirtschaftspolitischen Abteilung auf direktes Erreichen erreichbar ist." Am 23. September 1938 schrieb der Angeklagte Buchner an den Angeklagten ter Meer und von Schnitzler und sagte:

"Ich erfuhr heute morgen aus unserem Telefongesprach die erfreuliche Nachricht, dass es Ihnen gelungen ist, eine Waerdigung unseres Interesses in Aussig durch die zustandigen Behoerden zu erreichen und dass Sie schon den Behoerden Kommissare vorgeschlagen haben - naemlich Dr. Wurster und Tugler."

In einem Brief vom 29. September 1938 schrieb der Angeklagte von Schnitzler an die Angeklagten ter Meer, Buchner, Ilgner und Wurster und sagte:

"Sie sind in den allgemeinen Grundzugen ueber die Besprechungen unterrichtet, die ich Ende letzter Woche mit dem Reichswirtschaftsminister, mit Herrn Staatssekretar Koppler, und dem sudetendeutschen Wirtschaftsamt ueber die Situation des Aussiger Vereins hatte. Die Verhandlungen sind insoweit erfolgreich gewesen, als von allen Seiten anerkannt worden ist, dass, sobald das sudetendeutsche Gebiet unter deutscher Hoheit steht, die dort gelegenen Fabriken des Aussiger Vereins ohne Ruecksicht auf die zukuenftige Auseinandersetzung mit der Hauptgesellschaft in Prag, treuhanderisch durch Kommissare verwaltet werden muessen, "fuer Rechnung, den es angeht". Ich habe vorgebracht, dass es sich in erster Linie um die Werke Aussig und Falkenau handle und dass zumindest das erstere Werk, zweckmaessig aber auch Falkenau, nur von der IG betrieben werden kann, und dass die IG demgemass schon heute den Anspruch anmeldet, beide Werke zu erwerben... Bevor die Besitzverhaeltnisse geregelt seien, sei es zunaechst einmal notwendig, durch sachverständige Kommissare den technischen und kaufmannischen Betrieb aufrecht zu erhalten und diese Kommissare koenne die IG stellen."

In Einvernehmen mit Herrn Dr. ter Meer, schlug ich die Herren Dr. Karl Wurster fuer den technischen und Dr. Hans Kugler fuer den kaufmaennischen Teil vor. Mit diesem Programm war sowohl das Reichswirtschaftsministerium, wie die AO der Partei, fuer die Herr Schlotterer (RWIM) selbst auftreten konnte, einverstanden."

Der Muenchner Abkommen wurde am 29. September 1938 abgeschlossen und Deutschland besetzte in Verfolg dieses Abkommens das Sudetenland. Die Uebereinstimmung der IG mit der Politik der Regierung wurde damals durch ein Telegramm des Angeklagten Schnitz an Hitler mit folgendem Wortlaut gezeigt:

"Tief beeindruckt durch die Ruckkehr des Sudetenlandes in das Reich, die Sie, mein Fuehrer, erreicht haben, stellt die IG-Farben-Industrie A.G. eine Summe von einer halben Million Reichsmark fuer die Verwendung in Sudetenland Ihnen zur Verfuegung."

Das Beweismaterial enthaelt ein Memorandum der Direktions-Abteilung der IG mit der Ueberschrift "Vorbereitungen fuer die Neugestaltung der Wirtschaftsbeziehungen in Nachkriegs-Europa", datiert vom 19. Juni 1940. In diesem Memorandum heisst es:

"... Die Pruefungsstelle chemische Industrie hat von Herrn Schlotterer den Auftrag erhalten, ihn in kuerstester Frist eine Uebersicht zu geben ueber die chemische Industrie in den Laendern: Frankreich, Schweiz, England, Holland, Belgien, Dänemark und Norwegen..."

Wenn die IG hinsichtlich der kuenftigen Gestaltung der Farben-Fabrikation, in den in Frage stehenden Laendern besondere Anregungen zu geben habe, so sei es zweckmassig, sie bei dieser Gelegenheit mit aufzufuehren (wie vertraulich bemerkt wurde, hat Herr U. bei der Besprechung mit Herrn B. die Bemerkung fallen lassen, dass nach Beendigung des Krieges die europaeische Farbenherzeugung wohl unter der Leitung der IG stehen werde)....

Am 24. Juni 1940 schrieb der Angeklagte von Schnitzler an mehrere leitende Beamte der IG, einschliesslich der Angeklagten ter Meer und von Enierich, und forderte sie besonders auf, an einer Sitzung des Kaufmaennischen Ausschusses, die am 28. und 29. Juni in Frankfurt/Main stattfinden sollte, und fuhrte aus:

"... Abschrift der Einladung lege ich fuer diejenigen Herren bei, die, obgleich nicht Mitglieder der Kaufmaennischen Ausschusses, hiernit freundlichst gebeten wurden, am 28. Juni dieses Jahres gleichfalls anwesend zu sein. Den Hauptgegenstand unserer Besprechung, der in der Tagesordnung unter Nr. 1 als "wirtschaftspolitischer Bericht" bezeichnet ist, bildet die Erörterung des wirtschaftspolitischen Fragenkomplexes, der durch die rasche Entwicklung der kriegerischen Ereignisse, in Westen aktuell geworden ist. Es liegt eine konkrete Anfrage der Reichsregierung vor, in kuerstester Frist ein Programm auszuarbeiten, wie sich unsere Firma eine, in kuenftigen Friedensvertrag zu verankernde Ordnung der gesamten europaeischen Belange auf dem Chemie-Sektor vorstellt."

Das Protokoll dieser Sitzung, die am 28. und 29. Juni 1940 in Frankfurt stattfand, zeigt, dass von den Angeklagten in diesem Prozesse fol-

gende Personen angewandt waren: von Schnitzler, Gattineau, Ilgner, von Knierim, Kugler, Mann, ter Meer und Oster. Das Protokoll beweist weiterhin, dass eine eingehende und weitgehende Erörterung ueber die Zukunft der chemischen Industrie in vielen Laendern stattfand und dass der Beschlusse gefasst wurde, dass alle Bureau der IG und der Konzern-Gesellschaften aufgefordert werden sollten, Vorschlaege hinsichtlich aller Angelegenheiten, die die wirtschaftliche Neuorganisation in den folgenden Laendern, naemlich: a) Frankreich, b) Belgien und Luxemburg, c) Holland, d) Norwegen, e) Daenemark, f) Polen, g) das Protektorat, h) England und das Imperium betreffen.

Ein Memorandum vom 20. Juli 1940 wurde auf Befehl des Angeklagten von Krieger weitergeleitet, es bedarf: "1. Anregungen fuer den Friedensvertrag auf dem Gebiet des gewerblichen Rechtsschutzes" und "2. Die Stellung des deutschen Reichspatents in einem europaeischen unter deutscher Fuehrung stehenden Wirtschaftsraum." In Punkt 2 erklarte das Memorandum folgendes:

"Die Stellung des deutschen Reichspatents in einem europaeischen unter deutscher Fuehrung stehenden Wirtschaftsraum."

"Der Friedensvertrag wird weitgehende Aenderungen im politischen und wirtschaftlichen Aufbau grosser Teile Europas bringen. Man wird vielleicht davon ausgehen koennen, dass unter deutscher Fuehrung ein europaeischer Grossraum entsteht, der ausser Grossdeutschland eine Reihe weiterer souveraeen bleibender Staaten umfasst, eine Wirtschaftseinheit darstellt und moeglicherweise spaeter ein einheitliches Zoll- und Waehrungssystem bildet. In einem solchen wirtschaftlich einheitlichen Raum scheint es geradezu undenkbar, die zur Zeit bestehende Zerrissenheit auf dem Gebiet des gewerblichen Rechtsschutzes weiter bestehen zu lassen . . .

"Die weitgehende und als Ideal zu bezeichnende Loesung bestaende darin, fuer den ganzen unter deutscher Fuehrung stehenden europaeischen Raum ein einheitliches Patent dadurch zu schaffen, dass das formelle und das materielle Patentrecht durch ein einziges Gesetz, dessen Fortentwicklung dem deutschen Gesetzgebuerg vorzuehulden waere, geregelt wurde, und dass als einzige Patentbehoerde das Reichspatentamt bestehen bliebe.

"1. Es wird natuerlich daran gedacht, dass das deutsche Patentgesetz auf den ganzen Raum ausgedehnt wird....

"4..... Zur Sicherung der Einheitlichkeit der Rechtsprechung, duerfte es als Revisionsinstanz nur das Reichsgericht taetig werden; Wichtigkeitsklagen - und vielleicht nach oesterreichischem Vorbild auch Abhaeuigkeitfragen - muesseten ausschliesslich durch das Reichspatentamt und durch das Reichsgericht entschieden werden.
(Dok. "I-4695).

Am 3. August 1940 ueberreicht die I.G. dem Wirtschaftsministerium ihre "Neuordnungsplaeue" in einem vom Angeklagten von Schnitzler unterschriebenen Brief. Es ist ein ausfuehrlicher Bericht, der die "Lage weltwirtschaftlichen Faktoren, die bei einer Neuordnung des internationalen oekonomischen Marktes erwartet werden koennten," behandelt und in dem es heisst:

"2. Diesem kontinentalen Grossraum wird nach Abschluss des Krieges die Aufgabe gestellt sein, den Guter Austausch mit anderen Grossraeumen zu organisieren und mit den Produktionskraefte anderer Grossraume auf konkurrierten Marktgebieten in Wettbewerb zu treten - eine Aufgabenstellung, die insbesondere auch die Rueckgewinnung und Sicherung der Weltstellung der deutschen Chemiewirtschaft in sich schliesst....

"Der nach Laendern geordnete Teil umfasst sunaechst diejenigen Laender, fuer die im Zuge der militaerischen und politischen Ereignisse in absehbare Zeit im Rahmen von Waffenstillstands- bzw. Friedensbestimmungen wirtschaftspolitische Verhandlungen ueber eine grundsaeztliche Neuordnung zu erwarten sind, naemlich a) Frankreich, b) Holland, c) Belgien, Luxemburg, d) Norwegen, e) Daenemark, f) England und Empire."

Der selbe Bericht enthaelt eine eingehendere Eroerterung ueber die "Stellungnahme der I.G. Farbenindustrie zu den Fragen, die sich im deutsch-franzoesischen Verhaeltnis auf dem Chemiegebiet hinsichtlich Erzeugung und Absatz ergeben." Im Verlaufe der Eroerterung der Neuordnung finden wir hinsichtlich Frankreichs folgende bedeutsame Erklarungen:

".. Um so berechtigter mag es erscheinen, bei der Planung einer europaeischen Grossraumwirtschaft der deutschen Chemie wieder eine fuehrende und eine Stellung zuzudenken, die ihrem technischen, wirtschaftlichen und wissenschaftlichen Rang entspricht. Von entscheidendem Einfluss auf alle Planungen fuer den europaeischen Raum wird aber die Notwendigkeit sein, eine zielbewusste und schlagkraeftige Fuehrung der zwangslaeufigen Auseinandersetzung mit den sich heute schon abzeichnenden ausser-europaeischen Grossraumwirtschaften zu sichern.

" Um eine erfolgreiche Behauptung der grossdeutschen bzw. europaeisch-kontinentalen Chemie in dieser Auseinandersetzung zu gewaehrleisten, ist es ein dringendes Erfordernis, die Kraefte klar zu erkennen, die auf dem Weltmarkt nach dem Kriege ausschlaggebend sein werden.

".. Ganz grundsaeztlich wird daher von uns der Standpunkt eingenommen, dass die franzoesische chemische Industrie auch bei der kommenden Neuordnung ein Eigenloben behalten sollte, dass aber die kuenstlichen Schranken, die der deutschen Einfuhr durch ueberhoehnte Zolle, Einfuhrkontingente usw. gesetzt worden sind, beseitigt werden muessen. Ebenso wird davon auszugehen sein, dass im allgemeinen ein Export der franzoesischen chemischen Industrie nur ausnahmsweise und insoweit er schon fruher, d.h. vor Eintritt der Weltwirtschaftskrise, etabliert war, aufrechterhalten werden und dass die franzoesischen Aktivitaet sich eingemaess auf ihren Inlandsmarkt beschraenken sollte.

" Verstehende Uebersicht ueber Entwicklung und Stand der einzelnen Branchen der franzoesischen Chemie zeigt eindeutig, dass das Schwergewicht der Behinderung der deutschen Interessen auf dem franzoesischen Markt auf handelspolitischem Gebiet lag. Wenn daher eine der Bedeutung der deutschen Chemie entsprechende Beteiligung am franzoesischen Markt - die verbleibenden Kolonien, Protektorate und evtl. Mandatsgebiete eingeschlossen - aufgebaut und erhalten bleiben sollen, so wird dieses Ziel nur durch eine grundlegende Aenderung der Formen und Mittel der franzoesischen Handelspolitik zugunsten der deutschen Einfuhr gewaehrleistet werden koennen.

III. DEUTSCHE SPEZIELLER ART FÜR BESTIMMTE PRODUKTIONSBEREICHE

"1. Farbstoffe. - Zur Erreichung der angestrebten Neuordnung und zur teilweisen Wiedergutmachung der in und durch Frankreich erlittenen Schäden erscheint es als die zweckentsprechendste Lösung, dass durch die Beteiligung der deutschen Farbstoffindustrie an der französischen Farbstoffindustrie für alle Zukunft eine einheitliche Ausrichtung der französischen Produktion und ihres Absatzes dergestalt sichergestellt wird, dass keine Beeinträchtigung des deutschen Exportinteresses mehr stattfinden kann. Hierfür können konkrete Vorschläge gemacht werden, die wir uns beispielsweise so vorstellen, dass der I. G. gestattet wird, 50% des Kapitals der französischen Farbstoffindustrie vom Reich zu erwerben.

"a) Der deutsch-französischen Farbstoffgesellschaft bzw. Gesellschaften wird die alleinige Befugnis zugestanden, neue Anlagen zur Erzeugung von Farbstoffen (incl. Lackfarbstoffen) und von deren Zwischenprodukten in Frankreich zu errichten, neue Produkte in vorhandenen Anlagen aufzunehmen oder letztere auszubauen; im übrigen hat die französische Regierung ein Errichtungsverbot für Farbstoffe und deren Zwischenprodukte zu erlassen.

"b) Die Produktion der deutsch-französischen Gesellschaft ist grundsätzlich nur für den französischen Inlands- und Kolonialmarkt bestimmt.

"... wir haben mit Schreiben vom 13.7.1940 an das Reichswirtschaftsministerium diesem einen Freilander zur Verfügung gestellt.

"b) Handhabung eines französischen Kontingentes- und Lizenzsystems zu Gunsten Deutschlands mit dem Ziel, dass der französische Einfuhrbedarf grundsätzlich nur aus Deutschland gedeckt wird.

"Die Einführung von Vorzugszöllen zu Gunsten Deutschlands soll nicht nur die durch den Versailler Vertrag und die auf ihm beruhende Handelspolitik hervorgerufene Schädigung der deutschen chemischen Industrie in etwa wieder gutmachen suchen, sondern sie ist vielmehr hauptsächlich notwendig gegenüber solchen aussereuropäischen Ländern, die durch Verzögerungswartung und andere Massnahmen die mit Frankreich zu treffende Marktordnung stören könnten. Infolgedessen muss Wert darauf gelegt werden, dass die gegen dritte Länder gehandhabten Normalzollsätzen nur mit deutschen Einverständnis herabgesetzt werden können.

"EINE GENEHMIGUNGSPFLICHT FÜR ERZEUGUNG NEUER UND ERWEITERUNG BESTEHENDER ANLAGEN ist unerlässlich bei wirtschaftlich wichtigen Erzeugnissen. Wir nennen an, dass bei diesen Erzeugnissen die Genehmigungspflicht durch eine Erzeugungskontrolle ergänzt werden wird.

"Die zur Sicherung einer planvollen Wirtschaft unerlässliche Zusammenarbeit zwischen der deutschen und französischen Industrie erfolgt zum besten - meist unter Anknüpfung an bestehende Konventionen - durch Bildung langfristiger zwischenstaatlicher Syndikate, denen ein entsprechender Zusammenschluss der französischen Industrie voranzugehen hat. Im Gegensatz zu den bisherigen Formen der deutsch-französischen Chemie-Verständigungen müssen aber diese Syndikate unter einheitlicher

stärker Führung stehen, die entsprechend der grösseren Bedeutung der deutschen chemischen Industrie in deutscher Hand liegt und in Deutschland ihren Sitz hat. Die Ausfuhr französischer Chemikalien würde also ausschliesslich durch diese Syndikate gehen, soweit nicht in dem betreffenden Vertrag für bestimmte Gebiete oder in sonst genau bestimmten Fällen, der französischen Industrie die Ausfuhr freigegeben ist. Soweit die französische Industrie auf ihren Binnenmarkt beschränkt ist, kann im Syndikat verlangt werden, dass sie sich an den Ausfuhrwiderstand beteiligt.

In einem Brief an die Mitglieder des Kaufmännischen Ausschusses vom 22. Oktober 1940 sagte Herr Adolphe von Schmitaler bezüglich der Haltung der deutschen höheren Parteien gegenüber den von der I.G. gemachten Vorschlägen über die "Neuordnung" folgendes:

"... Es ist klar, dass unser Programm für Frankreich von den offiziellen Stellen sehr günstig aufgenommen wurde. Es ist offensichtlich, dass solch ein Programm für England vor dem Abschluss der Feindseligkeiten mit diesem Lande erwünscht ist..."

Im August 1940 folgten einmündig erzielte und Vorschläge für die "Neuordnung" in Holland, Dänemark und Italien auf dem Gebiete der Chemie, die dem Muster, das für die Neuordnung in Frankreich ausgearbeitet wurde, im allgemeinen gleichkamen und alle mit Deutschland in Aussicht genommener Fugung im Einklang standen und mit der Beherrschung des chemischen Gebiets durch die I.G.

Auf diese Weise sehen wir vor uns ausgearbeitet, wie die von der I.G. sorgfältig erwogenen Pläne, eine reiche Ernte industrieller Früchte aus Hitlers Angriffspolitik herauszuholen. Diese Pläne für die I.G. und für die deutsche "Führung" liefen Hand in Hand mit den Absichten auf Angriff und Beherrschung der Nazi-Regierung auf politischen und militärischem Gebiete. Deutschland sollte Europa und allmählich die ganze Welt beherrschen, und zwar finanziell, politisch und wirtschaftlich und die I.G. sollte an dieser Seite nach Abschluss des Friedens auf dauernder Grundlage teilnehmen.

Zusammenfassend sei gesagt, dass die im Protokoll enthaltenen Tatsachen, die von der Anklagebehörde vorgebrachten Behauptungen, dass die I.G. und diese Angeklagten ("Vorschafterlieder"), indem sie sich der I.G. als Kooperationspartner bedienten, Hitler wesentlich finanziell unterstützten, was ihm die Herrschaft ergreifung half und beitrug ihm an der Macht zu halten; dass er die Herrschaft bei der Organisation und Vorbereitung von Mobilisierungsbewegungen für den Krieg allmählich zusammenarbeiteten; dass sie an der wirtschaftlichen Mobilisierung Deutschlands für den Krieg teilnahmen und

Vierjahresplan eine grosse Rolle spielten; dass sie eine T tigkeit aus-
  bten, die f r die Schaffung und Ausstattung der Nazi-Kriegsmaschine uner-
 lausslich war; dass sie an der Bevorratung von unbedingt notwendigen Kriegs-
 material teilnahmen; dass sie wichtige Propaganda trieben und Informations-
 und Spionaget tigkeit leisteten, dass sie ihre Gesch ftsverbindungen und
 Kartells dazu benutzten Deutschland zu st rken und das Kriegspotential
 anderer L nder zu schw chen; dass sie ihre Guthaben im Auslande tarnten
 und sie f r Kriegszwecke benutzten; dass sie beabsichtigten die chemische
 Industrie Europas zu erobern und an der Pl nderung und Spoliation der
 besetzten Gebiete teilnahmen, und dass sie an der Verwertung der Sklaven-
 arbeit im grossen Stile zur St rkung der deutschen Kriegsmaschine teil-
 nahmen. Die Schlussfolgerungen, zu denen man in dieser Begr ndung gelangt,
 machen es unn tig, im Einzelnen die verschiedenen Grade der individuellen
 Ver ndung und Verantwortlichkeit f r die Einzelhandlungen der I.G. zu
 er rtern, mit denen die Angeklagten, die Vorstandsmitglieder waren, noch
 mehr identifiziert werden.

Vom obigen Res me des Beweismaterials kann gesagt werden, dass die
 I.G. durch ihre wesentlichen Eigenschaften, die eine Teilnahme an der
 Aufr stung Deutschlands und an einer grossen Anzahl verwandter Unter-
 nehmungen darstellten, in das Nazi-Regime einbezogen ^{wurde} und den deutschen Kriegs-
 einsatz ungeh r unterst tzte. Das Protokoll liefert ausgedehntes Be-
 weismaterial f r den Ethismus, mit dem die I.G. ihren Anteil an der Auf-
 gabe, die Deutschland in ein Affenk r verwandeln sollte, das an St rke
 alle seine Nachbarn  bertraffen sollte,  bernahm. Trotz der zahlreichen
 Verordnungen und Vorschriften, die die Einteilung der Wirtschaft wider-
 spiegelt, und die jetzt als Verteidigung vorgebracht ^{wurden}, ist es klar, dass
 die I.G. weiterhin in ihrem Verantwortungsbereich eine grosse Handlung-
 freiheit und Initiative genoss. Im wirtschaftlichen Aufbau des Nazi-Regimes
 stand die I.G. an h chster f hrender Stelle. Das Protokoll zeigt den
 Grad, in welchem ihre T tigkeit mit der T tigkeit der politischen und
 milit rischen F hrer untrennbar verkn pft war. Die I.G. arbeitete in
 der wirtschaftlichen Einteilung r ckwertslos mit. Es ist genauso klar,
 dass sie als Gegenleistung die Unterst tzung und Belohnung von diesem

Regime erwartet. Diese Umstände zielen darauf ab, den Einwand der Notigung und des staatlichen Zwanges der im Urteil des Gerichtes stillschweigend angenommen wurde, zu widerlegen. Dieser Verteidigungseinwand, der beim Prozess beharrlich vorgebracht wurde, weicht von den wahren Tatsachen, die durch ein ungeheures Beweismaterial enthüllt werden, ab, das die dauernde und anhaltende Initiative der I.G. auf dem Gebiete der Aufrüstung zeigt und es steht weiterhin auch im Widerspruch zu den vielen Fällen, in denen die I.G. im Stande war, den Lauf der Ereignisse zu beeinflussen, wenn solch eine Handlung im Interesse der I.G. oder des Regierungsprogramms im allgemeinen zu liegen schien.

Der unverantwortliche Charakter des Nazi-Regimes, seine dauernde Betonung des Gewalt und seine Politik der Unterdrückung als das Regime, das bekannt wurde, war nicht imstande, die Führung der I.G. von der Unterstützung dieses Regimes abzuhalten und diese Faktoren zeigen, wie sehr das Vorgehen der I.G. getadelt werden muss, das die I.G. auf Grund der Handlungen dieser Hauptanklagen an den Tag legte. Solch eine Handlungsweise jedoch stellt nicht ein Verbrechen gegen den Frieden dar, wenn man nicht von ihr sagen kann, dass sie die Vorschriften des Völkerrechts verletzt hat, wie dies im Kontrollratsgesetz Nr. 10 der rechtlichen Grundlage, von der dieser Gerichtshof seine Jurisdiktion ableitet, bestätigt wird.

Der Artikel II des Kontrollratsgesetzes Nr. 10 lautet in dieser Hinsicht folgendermassen:

"1. Jeder der folgenden Tatbestände stellt ein Verbrechen dar:

a) Verbrechen gegen den Frieden. Das Unternehmen des Einfalles in andere Länder und des Angriffskrieges als Verletzung des Völkerrechts und internationaler Verträge einschliesslich der folgenden einzigen Tatbestand jedoch nicht erschöpfenden Beispiele: Planung, Vorbereitung eines Krieges, Einleitung oder Führung eines Angriffskrieges oder eines Krieges unter Verletzung von internationalen Verträgen, Abkommen oder Zusicherungen; Teilnahme an einem gemeinsamen Plan oder einer Verschwörung zum Zwecke der Ausführung einer der vorstehend aufgeführten Verbrechen."

Diese Vorschrift des Kontrollratsgesetzes wie auch die Charter des Internationalen Militärgerichtes erläutern das bereits vorhandene Völkerrecht. Es ist keine ex post facto Gesetzgebung, sondern gibt eine weitere Anerkennung der Entwicklung eines internationalen Brauchs wieder, nach dem

ein Angriffskrieg als ungesetzlich erachtet wird. Teilnahmen an Handlungen, die unter das zitierte Gesetz fallen, stellen ein Verbrechen dar. Das ist die Bedeutung des Londoner Abkommens, der Charter und des Urteils des I.G. Im Kontrollratsgesetz Nr. 10 wie auch in der Charter des I.G. wird anerkannt, dass ein Einzelner im strafrechtlichen Sinne wegen der Begehung von Verbrechen gegen den Frieden zur Verantwortung gezogen werden kann. Als notwendige Folgerung ist daher kein Unterschied zwischen einer Privatperson und einem, wie zum Beispiel den politischen, diplomatischen und militärischen Führern des Staates zu sehen. Die strafrechtliche Verantwortlichkeit ist nach dieser Begriffsbestimmung persönlich und an den Einzelnen gebunden. Artikel 2 des Artikels II des Kontrollratsgesetzes Nr. 10 sieht folgendes vor:

- "2. Ohne Rücksicht auf seine Staatsangehörigkeit oder die Eigenschaft, in der er handelt, wird eines Verbrechens nach Absatz 1 von Ziffer 1 dieses Artikels für schuldig erachtet, wer
- a) als Täter oder
 - b) als Beihelfer bei der Begehung eines solchen Verbrechens mitgewirkt oder es befohlen oder angestiftet oder
 - c) durch seine Zustimmung daran teilgenommen hat oder
 - d) mit seiner Planung oder Ausführung in Zusammenhang gestanden hat oder
 - e) einer Organisation oder Vereinigung angehört hat, die mit seiner Ausführung in Zusammenhang stand, oder
 - f) soweit Ziffer 1 c) in Betracht kommt, wer in Deutschland oder in einem mit Deutschland verbündeten, an seiner Seite kampfenden oder Deutschland Gutes als leistenden Lande eine geheime politische, staatliche oder militärische Stellung (Einschliesslich einer Stellung im Generalstab) oder eine solche im finanziellen, industriellen oder wirtschaftlichen Leben innegehabt hat."

Bei wortlicher Auslegung kommt man der Ansicht sein, dass der Artikel 2 (f) des Kontrollratsgesetzes Nr. 10, der nur bei Verbrechen gegen den Frieden anwendbar ist, bedeutet, dass die Inhaber hoher politischer, zivilen oder militärischer Stellungen in Deutschland oder die Inhaber hoher Stellungen im finanziellen oder wirtschaftlichen Leben Deutschlands facto erachtet werden, Verbrechen gegen den Frieden begangen zu haben. Die Anklagebehörde in diesem Prozess erhebt keinen Anspruch auf eine solche wortliche Auslegung und erkennt an, dass sich nicht automatisch eine Schuld im strafrechtlichen Sinne mit dem Inhaber hoher Stellungen verbindet. Keine derart wortliche Auslegung ist zulässig. Artikel 2 (f) sieht lediglich vor, dass die Tatsache, dass jemand eine so hohe Stellung innegehabt hat, zusammen mit allem übrigen Beweismaterial in Betracht gezogen werden muss bei der Feststellung des Ausmasses individueller Kenntnis

und Teilnahme an Verbrechen gegen den Frieden. Dieser Paragraph dient jedoch dazu, die Behauptung zu widerlegen, dass private Geschäftsleute oder Industrielle von der Möglichkeit der Mitschuld an "Verbrechen gegen den Frieden" im Sinne des Gesetzes ausgeschlossen sind. Artikel 2 (f) scheidet nichts an der Beweislast, die jederzeit der Anklagebehörde obliegt. Er scheidet auch nicht die Voraussetzung des Nichtschuldigseins. Er unterstreicht einen beweisrechtlichen Umstand, der zusammen mit dem gesamten Beweismaterial betrachtet werden muss.

Artikel X der Verfassung, Nr. 7 der Militärrichterordnung, nach dem dieser Gerichtshof begründet ist, lautet:

"Die Feststellungen des Internationalen Militärgerichtshofes im Urteil des Falles Nr. 1, dass Einfälle, Angriffshandlungen und Angriffskriege, Verbrechen, Gräueltaten oder unmenschliche Handlungen geplant wurden oder stattfinden, sind für die hiermit gebildeten Gerichtshöfe verbindlich und sollen nicht in Frage gestellt werden, ausser soweit es sich darum handelt, dass eine bestimmte Person an diesen Taten teilgenommen oder von ihnen gewusst hat. Die Erklärungen des Internationalen Militärgerichtshofes im Urteil des Falles Nr. 1 sollen als Beweis der vorgebrachten Tatsachen dienen, insoweit nicht wesentliches neues Beweismaterial für das Gegenteil vorgebracht wird."

Nach der zitierten Vorschrift schlossen die einschlägigen Erkenntnisse des I.G. hinsichtlich der Angriffskriege und Angriffshandlungen, an den Tribunal bezüglich der Verbrechen gegen den Frieden, wie sie in der Anklageschrift dieses Prozesses zur Last gelegt wurden, folgendes ein: dass Angriffskriege gegen Polen am 1. September 1939 von Nazi-Deutschland geplant und geführt wurden; gegen Dänemark und Norwegen am 9. April 1940; gegen Belgien, Holland und Luxemburg am 10. Mai 1940; gegen Griechenland und Jugoslawien am 6. April 1941; gegen Sozialistische Sowjet Republiken am 22. Juni 1941; und gegen die Vereinigten Staaten am 11. Dezember 1941.

Es wurde weiterhin vom I.G. bezüglich des Abschlusses erklärt, dass Österreich in Verfolgung eines "gemeinsamen Angriffsplanes" besetzt wurde

"... die Methoden, deren man sich zur Erreichung jenes Zieles bediente, waren die eines Angreifers. Entscheidend war, dass Deutschlands bewaffnete Macht für den Fall eines Widerstandes bereitstand."

Die Vorschriften des Kontrollratsgesetzes bedürfen derselben Grundelemente für die Begehung von Verbrechen gegen den Frieden, wie diejenigen, die nach den Grundprinzipien, die für das Strafrecht gelten, verlangt werden. Es muss ein Akt wesentlicher Teilnahme vorliegen und von einer verbrecherischen Absicht und von einem subjektiven Tatbestand begleitet sein. Nach dem Kontrollratsgesetz Nr. 10 kann die Erzeugung von Waffen oder die Entwicklung des "Kriegspotentials"

in der Form von Produktionsplanung oder der Planung von Erzeugungsstätten zur Erzeugung von Rohmaterial, das fuer die Kriegsfuehrung noetig ist, eine Teilnahmehandlung darstellt, die ausreicht, die schuldhafte Verantwortlichkeit an dem Akt der Planung und Vorbereitung fuer einen Angriffskrieg zuzumessen. Solch eine Handlung muss jedoch mit der erforderlichen Absicht, die Ziele des Angriffskrieges zu foerdern, verbunden sein und muss, wie ^{die} Anklagebehoerde behauptet, eine wesentliche Teilnahme darstellen. Was die Art der Kenntnis anlangt, die notwendig ist, um einen inneren Tatbestand darzustellen, der dem Gesetze nach einer strafbaren Absicht in Bezug auf Verbrechen gegen den Frieden ^{kommt} gleich/ so argumentiert die Anklagebehoerde sehr treffend:

"Bei der Besprechung der Handlung haben wir dargelegt, dass jeder, der eine wesentliche Verantwortung fuer die Ausuebung von Taetigkeiten traegt, die zur Foerderung der militaerischen Macht eines Landes notwendig sind, an den Verbrechen teilnimmt... Hinsichtlich des subjektiven Tatbestandes wird die Kenntnis gefordert, dass diese militaerische Macht benutzt werden wird, oder benutzt wird, um eine nationale Expansionspolitik zu verfolgen, auf Grund deren den Voelkern anderer Laender ihr Land, ihr Eigentum oder ihre persoenliche Freiheit geraubt wird.

Die Anklagebehoerde steht auf dem Standpunkt, dass in Verbindung mit den Beschuldigungen wegen Vorbereitung und Planung und Verschwörung es ausreichend ist, wenn die Annahme besteht, dass, obwohl tatsaechliche Gewalt angewendet werden wird, falls sich dies als notwendig erweist, das Ziel dadurch erreicht werden wird, dass die militaerische Macht nur als Drohung benutzt wird und dass es nicht notwendig ist, dass die Angeklagten genau wissen, welches Land das erste Opfer sein wird, oder den genauen Zeitpunkt, wann die Eigentumsrechte oder die persoenliche Freiheit der Bewohner eines Landes angegriffen werden werden.

10. Eine Frage fuer sich, die hier nicht erörtert werden muss, betrifft die Art und das Ausmass des Beweismaterials, das notwendig ist, um ueber jeden vernuenftigen Zweifel hinaus festzulegen, dass irgendein bestimmter Angeklagter zu einer bestimmten Zeit wusste, dass Deutschlands Militaermacht dazu verwendet werden wurde, eine nationale Expansionspolitik zu verfolgen, durch die den Einwohnern anderer Laender Land, Eigentum und persoenliche Freiheit geraubt werden sollen. Es genuegt, hier zu bemerken, dass die Anklagebehoerde nicht behauptet, dass die weitverbreitete Kenntnis von diesem Programm und den Zielen der Hitler-Bewegung durch Jahre hindurch an und fuer sich genug ist, um ueber jeden vernuenftigen Zweifel hinaus festzustellen, dass jede Durchschnittsperson innerhalb Deutschlands die erforderliche Kenntnis besass. Das Beweisverfahren muss mehr als die Kenntnis des Angriffsprogramms und der Ziele der Nazi-Regierung und die Annahme, dass eine Moeglichkeit bestuende, dass Gewalt angewendet werden wurde, um die Expansionspolitik durchzufuehren, darlegen. Es muss ueber jeden vernuenftigen Zweifel hinaus beweisen, dass die Angeklagten der Ansicht waren, dass tatsaechlich Gewalt angewendet werden wurde, falls dies notwendig waere, um diese Politik durchzufuehren."

Der Masstab der strafbaren Teilnahme an Verbrechen gegen den Frieden, fuer die die Nazi-Regierung verantwortlich war, wurde wie folgt im Urteil

des IMT niedergelegt:

"Das Argument, dass ein solch gemeinsames Planen in einer vollstaendigen Diktatur unmoeglich sei, ist nicht stichhaltig. Ein Plan, an dessen Durchfuehrung eine Anzahl von Personen teilnimmt, bleibt ein Plan, auch wenn er im Gehirn nur einer dieser Personen entstanden ist; und diejenigen, die den Plan ausfuehren, koennen ihrer Verantwortlichkeit nicht dadurch entgehen, dass sie nachweisen, sie haetten unter der Leitung des Mannes gehandelt, der den Plan entwarf. Hitler konnte keinen Angriffskrieg allein fuehren. Er benoetigte die Mitarbeit von Staatsmaennern, militaerischen Fuehrern, Diplomaten und Geschaeftsleuten. Wenn diese seine Ziele kannten und ihm die Mitarbeit gewaehrten, so machten sie sich zu Teilnehmern an dem von ihm ins Leben gerufenen Plan. Wenn sie wussten, was sie taten, so koennen sie nicht als unschuldig erachtet werden, weil Hitler sie benutzte. Dass ihnen ihre Aufgaben von einem Diktator zugewiesen wurden, spricht sie von der Verantwortlichkeit fuer ihre Handlungen nicht frei. Das Verhaeltnis zwischen Fuehrer und Gefuehrten schliesst Verantwortlichkeit ebensowenig aus, wie bei dem vergleichbaren Tyrannenverhaeltnis, wenn es sich um organisierte innerstaatliche Verbrechen handelt."

Dieser weitgehende Masstab der Teilnahme an diesem gemeinsamen Plan oder dieser Verschwuerung ist meiner Ansicht nach in gleicher Weise hinsichtlich der Beschuldigung an der Teilnahme und Vorbereitung von Angriffskriegen anwendbar. Es muss untersucht werden, ob eine Kenntnis ueber Hitlers "Ziele" besteht. In dieser Hinsicht stellt eine Teilnahme an den Methoden, den Plaenen und den Zielen des Nazi-Regimes an und fuer sich noch nicht selbst ein Verbrechen gegen den Frieden dar. Es muss eine Teilnahme, nachdem man zu konkreten Plaenen fuer die Kriegsfuehrung gelangt war, bestehen und im Bewusstsein der Person, die beschuldigt wird, muss ein positives Wissen ueber die Absicht, zum Angriffskrieg zu schreiten, verankert sein. Es ist nicht noetig, wie von der Verteidigung behauptet wird, dass die Kenntnis von bestimmten Angriffsplaenen gegen bestimmte Laender zu einer bestimmten Zeit vorhanden ist. Es ist auch nicht notwendig, dass eine genaue Kenntnis der Reihenfolge der Opfer des Angriffskrieges an den Tag gelegt wird. Es reicht aus, wenn das letzte Ziel, zu einem Angriffskrieg zu schreiten, bekannt ist oder zur Zeit der wesentlichen Teilnahme angenommen wird, jedoch muss solch ein Wissen oder solch ein innerer Tatbestand durch ueberzeugende Beweise, die ueber jeden vernuenftigen Zweifel erhaben sind, festgestellt werden. Ueberdies ist es in diesem Stadium der Entwicklung des Voelkerrechts, das Verbrechen gegen den Frieden anklagt, fuer einen Gerichtshof besser, bei der Anwendung der Vorschrift ueber vernuenftigen Zweifel sich zugunsten der Liberalitaet zu irren.

Bei der Analyse der von der Anklage vorgebrachten Behauptung komme ich zu dem Schluss, dass, wie erstrebenswert auch solch eine rechtliche Auffassung des Erfordernisses der Kenntnis als Grundsatz des Voelkerrechts waere, die in dieser Definition des subjektiven Tatbestandes vorgebrachte Behauptung zu weitgefasst ist und ueber die Vorschriften des Kontrollratsgesetzes Nr. 10 hinausgeht. Der Zusammenhang zwischen Angriffshandlungen, die von Gewaltandrohungen unterstuetzt werden, und dem Uebel des Angriffskrieges ist nahe genug, um eine ernsthafte Nachpruefung des vorgeschlagenen Massstabes bei der weiteren Darlegung der rechtlichen Seite des Verbrechens gegen den Frieden zu rechtfertigen. Ich kann jedoch nicht daraus schliessen, dass die Tatsache, dass einzelne Angeklagte wussten, dass die deutsche territoriale Expansionspolitik, durch militaerische Macht unterstuetzt, bei der Einverleibung Oesterreichs und der Tschechoslovakei durchgefuehrt wurde, eine Kenntnis darstellt, die den subjektiven Tatbestand oder die verbrecherische Absicht, die fuer die Beguehung eines Verbrechens gegen den Frieden erforderlich ist, erfuehlt. Ich stimme mit der Behauptung der Anklagebehoerde ueberein, dass das Beweisverfahren in diesem Prozess zeigt, dass die meisten, wenn nicht alle, Angeklagten wussten oder annahmen, dass militaerische Gewalt angewendet werden wuerde, als Drohung, um von der Tschechoslovakei, Polen und anderen Nationen territoriale Konzessionen zugunsten Deutschlands zu erzwingen. Das Beweisverfahren zeigt jedoch nicht ueber jeden vernuenftigen Zweifel hinaus, dass die Angeklagten wirklich wussten oder annahmen, dass Gewalt bis zum Angriffskrieg tatsaechlich angewendet werden wuerde, falls dies noetig waere. Das Argument der Anklagebehoerde wuerde, wenn man es bis zum logischen Schluss fuehrt, bedeuten, dass in den Faellen von Oesterreich und der Tschechoslovakei diese Angeklagten eines Verbrechens gegen den Frieden fuer schuldig haetten erachtet werden koennen, obwohl tatsaechlich aus diesen Angriffshandlungen kein Angriffskrieg entstand. Es ist richtig, dass im Falle des Angeklagten Raeder das IMT die Behauptung zurueckwies, dass Raeder nicht das erforderliche strafbare Wissen hatte, da er erklaerte, er waere der Ansicht gewesen, dass Hitler eine politische Loesung fuer Deutschlands Probleme finden wuerde, ohne wirklich Krieg fuehren zu muessen, und zwar wegen der ueberwaeltigenden Macht Deutschlands. Man muss jedoch bedenken, dass Raeder durch seine Anwesenheit

bei einer Konferenz, bei der Hitler ausdrücklich seine Pläne, einen Angriffskrieg zu führen, wenn dies nötig wäre, bekanntgab, tatsächlich wusste, dass das damalige Staatsoberhaupt sich entschlossen hatte, ein Angriffsprogramm durchzuführen und es bis zum Punkte eines wirklichen Krieges durchzuführen, um das Ziel der territorialen Vergrößerung zu erreichen. Im Falle der 13-Angeschuldigten kann jedoch, da sie wussten, dass Angriffshandlungen in Verbindung mit Österreich und der Tschechoslowakei ausgeführt worden waren und noch immer ausgeführt wurden und die Angeklagten tatsächlich an den Erwerb der Industrie, der aus den erwarteten Angriffshandlungen resultierte, teilnahmen, nicht geschlossen werden, dass solche eine Handlung notwendigerweise dem erforderlichen Wissen und dem subjektiven Tatbestand gleichkommt, der die Planung zur Führung eines Angriffskrieges darstellt. Die Tätigkeit der Angeklagten in diesem Prozesse, wenn wir auch zugeben, dass sie durch materielle Hilfe an der territorialen Ausbreitung durch die Anwendung von Gewaltandrohung teilgenommen haben, stellt unter den Umständen dieses Falles kein Kriegsvorbereiten dar. Es obliegt der Anklagebehörde, weiteres Beweismaterial beizubringen, und durch besondere Beweise zu zeigen, dass der einzelne Angeklagte, der beschuldigt wird, von dem Plan wusste, dass, wenn es nötig wäre, zum Angriffskrieg geschritten werden sollte, um die Ziele territorialer Vergrößerung zu erreichen. Ähnliche Folgerungen müssen bezüglich der Invasion in Polen vorgebracht werden, der Angriffshandlung, aus der der zweite Weltkrieg unmittelbar hervorging. Hier ist das Beweismaterial nicht in dem Sinne schlüssig, dass die Angeklagten tatsächlich von einem Entschluss wussten, Polen einzuverleiben, und zwar unter Anwendung von Gewalt, die, falls es zur Erreichung des Zieles der territorialen Vergrößerung notwendig wäre, selbst bis zum Kriege führen sollte. Als sich die polnische Krise entwickelte, wussten die Angeklagten, oder es wurde ihnen wenigstens das Wissen zugemessen, dass Angriffsmethoden angewandt wurden. Die Gewaltandrohungen waren ihnen bekannt. Es bestand jedoch die Möglichkeit, dass durch Verstärkung des Widerstandes der Krieg abgewandt werden würde, weil der Angreifer die Politik nicht bis zum offenen Kriege weiterverfolgen würde. Das Ergebnis des Beweisverfahrens stellt andererseits nicht schlüssig die Verbindung der ein-

seinen Angeklagten mit der Planung und Vorbereitung irgendeines der anderen Angriffskriege, die von Deutschland gefuehrt wurden, und mit dem besonderen Wissen und dem Entschluss solche Angriffskriege zu beginnen, her.

Indem ich jenen Teil des IMT-Urteils, der im einzelnen feststellt, dass die Wiederaufruestung an sich kein Verbrechen ist, vorausgesetzt, dass sie nicht als Teil eines Planes durchgefuehrt wird, einen Angriffskrieg zu fuehren, als gut fundiert ansehe, so schliesse auch ich, dass die Betaeetigung der Angeklagten eine Teilnahme an der Aufruestung unter Umstaenden darstellt, von denen nicht ueber einen vernuenftigen Zweifel hinaus erwiesen worden ist, dass sie in tatsaechlicher Kenntnis von Hitlers Zielen, einen Angriffskrieg zu fuehren, erfolgte. Trotzdem aus vielen Beweisstuecken, die sich auf einige der Angeklagten in Hinsicht auf Absicht und Kenntnis beziehen, starke Rueschluesse gezogen werden koennen, wird dem ausserordentlich strengen, an den Beweis anzulegenden Masstab, der in dieser Entwicklungsphase des Verbrechens gegen den Frieden gefordert werden sollte, nicht eindeutig entsprochen, und aus diesem Grunde stimme ich dem Preisprechen zu Punkt I der Beschuldigung wegen Planung und Vorbereitung eines Angriffskrieges zu. Eine strafbare Verbindung mit den Entschluessen der Nazi-Regierung, Angriffskriege in die Wege zu leiten, ist ebenfalls nicht festgestellt worden.

Es bleibt noch die Frage bestehen, ob irgendein Angeklagter der "Fuehrung" eines Angriffskrieges fuer schuldig erachtet werden kann. Dies ist jener Teil der Anklagevorbringen, dem zu begegnen fuer die Angeklagten am schwersten ist. Von der Zeit des Einfalls in Polen an wussten die Angeklagten, oder man konnte ihnen das Wissen darueber zur Last legen, dass die von Deutschland gefuehrten Kriege Angriffskriege waren und der wesentliche Beitrag, den die Angeklagten bei der Fuehrung dieser Kriege geleistet haben, kann nicht mit Erfolg geleugnet werden. Die Anklagebehörde stuetzt sich nicht ohne beachtliche Logik und gewichtige Argumente auf die Taetigkeit der Angeklagten in Verbindung mit Spoliation und Sklavenarbeit als Handlungen, die einen wesentlichen Anteil an der Fuehrung von Angriffskriegen darstellen. In diesem letzteren Zusammenhang besteht eine gewisse Analogie zwischen der Taetigkeit gewisser Angeklagter auf dem Gebiete der Spoliation und Sklavenarbeit und der Hermann Roehlings, der von einem Internationalen Militaergerichtshof in der franzoesi-

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sehen Besatzungszone nach Kontrollratsgesetz Nr. 10 unter der Anklage der "Fuehrung" eines Angriffskrieges verurteilt wurde. (Das Urteil wurde am 30. Juni 1948 von dem General-Tribunal der Militaerregierung in der franzoesischen Besatzungszone Deutschlands gegen Hermann Roechling und Gen. ausgesprochen). In jenem Prozesse wurde Hermann Roechling der Vorbereitung von Angriffskriegen nicht fuer schuldig befunden. Das Beweisverfahren gegen ihn ergab, dass er mehreren geheimen Konferenzen Goerings in den Jahren 1936 und 1937 beiwohnte und dass er die Verwendung eisenarmer Erze, die nicht wirtschaftlich war, in den wichtigen Stahlindustrien unter seiner Leitung foerderte. Der Gerichtshof erkannte, dass die Handlung, die in der Erzeugung von Waffen bestand, nicht notwendig miteinschloss, wie das Gericht aussprach, dass der Zweck darin bestand, einen Angriffskrieg zu beginnen. Es stellte die Tatsachen fest, dass das Beweismaterial nicht gezeigt habe, dass Hermann Roechling jemals darueber informiert worden war, dass Angriffskriege gefuehrt werden sollten und dass kein Beweis dafuer vorlag, dass er je an der Vorbereitung von Angriffskriegen teilgenommen habe. Der Gerichtshof erkannte ihm jedoch der Fuehrung von Angriffskriegen aus den folgenden Gruenden fuer schuldig:

"Nach dem Einfall in Polen im Jahre 1939 in Daeenemark, Norwegen, Belgien, Luxemburg und den Niederlanden im Jahre 1940, in Jugoslawien, Griechenland und Russland im Jahre 1941, konnte niemand laenger Zweifel hegen ueber das Ziel der Kriege, die von der Reichsregierung entfesselt wurden und der aggressive Charakter dieser Kriege ist ueberdies im oben erwachten Urteil des Internationalen Militaergerichtshofs anerkannt worden."

Der Gerichtshof erkannte, dass Roechling aus seiner Rolle als Industrieller herausgefallen war und hohe Verwaltungspositionen verlangte und annahm, um die deutsche Eisenproduktion weiter zu entwickeln. Die darnach aufgezählten Tatsachen zeigen, dass er Generalbevollmaechtigter fuer die Stahlwerke der Departements Moselle und Meurthe-et-Moselle Sud wurde, dass er Industrien beschlagnahmte, die eine Stahlerzeugung von 9 Millionen Tonnen hatten und mehr als 200,000 Leute beschaeftigten, dass er nach der durch Goering bewerkstelligten Zuweisung der beschlagnahmten Werke an ihn sich bemaehte, die Erzeugung dieser Werke zugunsten des Kriegseinsatzes zu heben, dass er den Reichsbahorden Vorschlaege hinsichtlich einer gesteigerten Eisenproduktion machte, dass ihm spaeter die Leitung der Reichsvereinigung Eisen uebertragen wurde, die die Aufgabe

hatte, die deutsche Eisenproduktion zu intensivieren und diese Produktion in den besetzten Gebieten auszubauen, dass er in Ausübung seiner Befugnisse von der Industrie in den besetzten Gebieten verlangte, diese solle arbeiten, um die Aufrüstung einer Macht, die mit ihrem eigenen Lande im Kriege stand, zu fördern. Er wurde der Begehung von Verbrechen gegen den Frieden fuer schuldig erklart, da er durch seine Handlungen "einen grossen Anteil an der Fortsetzung der Angriffskriege waehrend dreier Jahre hatte". Die Entscheidung im Prozesse Roehling ist daher bindend fuer die Ansicht, dass die Teilnahme an der Ausbeutung der besetzten Laender zu Gunsten des deutschen Kriegseinsatzes unter den angegebenen Umstaenden ein Verbrechen gegen den Frieden darstellt. Ich komme jedoch zu dem Schlusse, dass die im Beweisverfahren gegen die vorliegenden Angeklagten enthaltenen Tatsachen einen Grad darstellen, der ausreicht, die Faelle unterschiedlich zu behandeln. Ich fuehle mich nicht gerechtfertigt, nur auf Grund des Roehling-Prozesses eine abweichende Meinung hinsichtlich des Freispruches des vorliegenden Angeklagten wegen der Fuehrung von Angriffskriegen zu aussprechen.

Es ist meiner Ansicht nach unmoglich, diese Gesichtspunkte des Urteils des Internationalen Militaergerichtshofes, die sich mit der Fuehrung von Angriffskriegen beschaeftigen, so in Einklang zu bringen, um daraus ein feststehendes Prinzip ueber die Fuehrung von Angriffskriegen im Sinne des Statuts des Kontrollratsgesetzes aufzustellen. Bei der Durchfuehrung des Prozesses gegen Doenitz erkannte das IMT, nachdem es zu dem Schlusse gelangt war, dass kein Beweismaterial dafuer vorlag, dass Doenitz ueber den Entschluss, einen Angriffskrieg zu fuehren, informiert war, ihn nichtsdestoweniger der Fuehrung von Angriffskriegen schuldig, und zwar auf Grund seiner Teilnahme am Unterseebootkrieg unmittelbar nach Ausbruch des Krieges. Im Gegensatz dazu fuehrte die Taetigkeit, die Speer als Chef der Ruestungsindustrie ausuebte, nachdem der Angriffskrieg schon im Gange war, zu keiner Verurteilung. Das IMT erkannte im Hinblick auf Speer:

"Seine Taetigkeit diente, als ihm die deutsche Ruestungsproduktion unterstand, den Kriegsanstrengungen ebenso wie andere Produktionsunternehmungen der Kriegfuehrung gedient haben. Der Gerichtshof ist jedoch nicht der Ansicht, dass eine solche Taetigkeit die Teilnahme an einem auf die Fuehrung von Angriffskriegen im Sinne von Punkt 1 der Anklage gerichteten Plan darstellt, und auch nicht die Fuehrung eines Angriffskrieges gemass Punkt 2 der Anklage bedeutet." (IMT deutsch S. 374)

Es mag unlogisch erscheinen, dass ein hoher Marineoffizier, der die Aufgaben desjenigen Seemachtsteils, den er leitet, ausführt, der Führung von Angriffskriegen für schuldig erachtet werden sollte, und der Minister für Munition und Bewaffnung für seine Tätigkeit, die in den meisten Fällen zur Führung des Krieges noch wichtiger war als die taktischen Entscheidungen, die von einem militärischen Befehlshaber verlangt waren, nicht für schuldig befunden werden sollte. Der Zwang militärischer Disziplin in einer Nation, die sich im Kriege befand, war gewiss realer und warer im Falle eines Marineoffiziers weniger der freien Wahl überlassen als im Falle eines zivilen Rüstungsministers. Aber mangels ausreichenden Beweises zur Rechtfertigung einer Verurteilung unter der Beschuldigung der Planung und Vorbereitung eines Angriffskrieges wäre es nicht logisch, in diesem Falle irgendeinen oder alle Angeklagten der IG wegen Führung von Angriffskriegen zu verurteilen, angesichts der positiven Feststellung des Internationalen Militärgerichtes, dass eine Betätigung in der Kriegsproduktion solcher Art, wie sie von Speer geleitet wurde, nicht eine "Führung" eines Angriffskrieges darstellt. Es liegt auch keine gewaltige Antwort hinsichtlich des Ausmaßes und der Unentbehrlichkeit der Beiträge der IG für den deutschen Kriegseinsatz vor. Speers Freispruch stellt, wenn man ihn im Lichte von Schachts Freispruch betrachtet, der Verurteilung dieser Angeklagten unübersteigbare Hindernisse entgegen. Der tatsächliche Unterschied, der auf Grund der dauernden und wesentlichen Beiträge, die die IG zum deutschen Kriegseinsatz leistete, kann meiner Ansicht nach zu keinem verschiedenen Resultat führen, ausser wenn dieser Gerichtshof sich weigert, den Schlüssen hinsichtlich Speers Freispruch zu folgen. Trotz der zwingenden Argumente, die sich auf andere Teile des I'T-Urteils gründen, komme ich zu dem Schluss, dass dem Präzedenzfall im Speer-Prozess hier gefolgt werden soll und dass eine Verurteilung der Angeklagten nicht nur lediglich wegen der Begehung des Verbrechens der Führung von Angriffskriegen erfolgen kann.

Aus den angegebenen Gründen stimme ich dem Freispruch aller Angeklagten unter den Punkten I und V der Anklage zu.

(Unterschrift) Paul M. Hobart
Paul M. Hobart.
Judge, Military Tribunal VI.

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Wir bezeugen hiermit, dass wir verschriftungsartig bestellte
Uebersetzer der deutschen und englischen Sprache sind und dass
das Vorstehende eine wahrheitsgemasse und richtige Uebersetzung
der Zustimmung Urteilsbegründung darstellt.

Munich, 11. Januar 1949

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Elli Kennett
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ETO 35270

*Dissenting Opinion of Judge Herbert on Count 3,
Eng & German, filed 28 Dec 48*

MILITARY TRIBUNAL NO. VI

CASE NO. 6

THE UNITED STATES OF AMERICA

-against-

CARL KRAUCH et al

FILED

28 December 1948

Secretary General
for Military Tribunal
Nürnberg, Germany

DISSENTING OPINION

By

JUDGE PAUL M. HERBERT

On

COUNT THREE OF THE INDICTMENT



UNITED STATES MILITARY TRIBUNAL VI
PALACE OF JUSTICE, NURNBERG, GERMANY

THE UNITED STATES OF AMERICA

-VS-

CARL KRAUCH, HERMANN SCHMITZ,
GEORG VON SCHNITZLER, FRITZ
GAJEWSKI, HEINRICH HOKHLEIN,
AUGUST VON KNIERIEM, FRITZ TER
MEER, CHRISTIAN SCHNEIDER, OTTO
AMEROS, ERNST BUEGIN, HEINRICH
BUETEFISCH, PAUL HAEFLIGER, MAX
ILGNER, FRIEDRICH JAEHNE, HANS
KUEHNE, CARL LAUTENSCHLAGER,
WILHELM MANN, HEINRICH OSTER,
KARL WURSTER, WALTER DUERRFELD,
HEINRICH GATTINKAU, ERICH VON
DER HEYDE, AND HANS KUGLER,
officials of I.G. FARBENINDUSTRIE
AKTIENGESELLSCHAFT

Case No. 6

Defendants

DISSENTING OPINION

Count Three of the Indictment

This dissenting opinion is filed pursuant to reservations made at the time of the rendition of the final judgment by Military Tribunal VI in this case. Under Count Three of the indictment, all defendants are charged with having committed War Crimes and Crimes Against Humanity as defined in Article II of Control Council Law No. 10. It is alleged in the indictment that the defendants participated in the enslavement and deportation to slave labor on a gigantic scale of members of the civilian population of countries and territories under the belligerent occupation of, or otherwise controlled by Germany; that the defendants participated in the enslavement of concentration camp inmates, including German nationals; that the defendants participated in the use of prisoners of war in war operations and work having a direct relation to war operations, including the manufacture and transportation of war material and equipment; and, that the defendants participated in the mistreatment, terrorization, torture, and murder of enslaved persons. It is alleged that all defendants committed War Crimes and Crimes Against Humanity as enumerated, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or

groups including Farben, which were connected with the commission of said crimes. There are general allegations that the defendants acted through the corporate instrumentality, I.G. Farbenindustrie, A.G. in the commission of said crimes.

The Tribunal convicted the defendants Krauch, ter Meer, Ambros, Buetefisch and Duerrfeld under this count principally for initiative shown in the procurement of slave labor for the construction of Farben's Buna plant at Auschwitz. The eighteen remaining defendants were all acquitted of the charges under Count Three. Included in the group of acquitted defendants were fifteen members of the Vorstand, or principal governing corporate board of Farben. The acquitted Vorstand members included: Schaetz, von Schnitzler, Buergin, Haeffliger, Higner, Jaehne, Oster, Gajewski, Hoerlein, von Knieriem, Schneider, Kuehne, Lautenschlaeger, Mann and Wurster. The majority opinion concedes, and, in fact, it is not seriously controverted in this case, that slave labor, i.e., compulsory foreign workers, concentration camp inmates and prisoners of war were employed and utilized on a wide scale throughout numerous plants of the vast Farben organization and that such utilization was known by the defendants. The majority reached the conclusion that, except in the case of Auschwitz where initiative constituting willing cooperation by Farben with the slave labor program was held to have been proved, no criminal responsibility resulted for participation in the utilization of slave labor. Basically, the majority opinion under Count Three concluded that, in order to meet fixed production quotas set by the Reich, "Farben yielded to the pressure of the Reich labor office and utilized involuntary foreign workers in many of its plants." The majority assert that "The utilization of forced labor, unless done under such circumstances as to relieve the employer of responsibility, constitutes a violation of that part of Article II of Control Council Law No. 10, which recognizes as war crimes and crimes against humanity the enslavement, deportation, or imprisonment of the civilian population of other countries." But the majority fully accepts the defense contention that the utilization of slave labor by Farben (except in the case of Auschwitz) was the result of the compulsory production quotas and other obligatory governmental decrees and regulations directing the use of slave labor. The asserted defense of "necessity" is held to have been sustained because of the reign of terror within the Reich and because of possible dire consequences to the defendants had they pursued any other policy than that of compliance with the slave labor system of the Third Reich.

I concur in the conviction of the five defendants found guilty by the Tribunal, but I am of the opinion that the criminal responsibility goes much further than merely embracing the five defendants most immediately connected with the construction of Farben's Auschwitz plant. In my view all of the members of the Farben Vorstand should be held guilty under Count Three of the indictment not only for the participation by Farben in the crime of enslavement at Auschwitz, but also for Farben's widespread participation and willing cooperation with the slave labor system in the other Farben plants where utilization of forced labor in violation of the well-settled principles of international law recognized in Control Council Law No. 10 has been so conclusively shown. I disagree with the conclusion that the defense of necessity is applicable to the facts proved in this case.

While it is true that there were numerous governmental decrees under which complete control of the manpower supply was assumed by the Reich Government, existence of such controls does not, in my opinion, establish the defense of necessity even under the conditions which existed in Nazi Germany. Recognition of such a defense is, in my view, utterly inconsistent with the provisions of Control Council Law No. 10 which indicate quite clearly that Governmental compulsion is merely a matter to be considered in mitigation and does not establish a defense to the fact of guilt. Thus Section 4(b) of Article II of Control Council Law No. 10 provides:

"The Fact that any person acted pursuant to the order of his Government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation."

Under the evidence it is clear that the defendants in utilizing slave labor which is conceded to be a war crime (in the case of non German nationals) and a crime against humanity, did not, as they assert, in fact, act exclusively because of the compulsion and coercion of the existing Governmental regulations and policies. The record does not establish by any substantial credible proof that any of the defendants were actually opposed to the Governmental solution of the manpower problems reflected in these regulations. On the contrary, the record shows that Farben willingly cooperated and gladly utilized each new source of manpower as it developed. Disregard of basic human rights did not deter these defendants. At times they expressed concern over the inefficiency of compulsory labor but they willingly cooperated in the tyrannical system. Far from establishing that the defendants acted under "necessity" or "coercion" in this regard, I conclude from the record that Farben accepted and frequently sought the forced workers, including compulsory foreign workers, concentration camp inmates and prisoners of war for armament work because there was no other solution to the manpower

needs. Farben and these defendants wanted to meet production quotas in aid of the German war effort. In fact, the production quotas of Farben were largely fixed by Farben itself because Farben was completely integrated with the entire German program of war production. Farben's planners, led by defendant Krauch, geared Farben's potentialities to actual war needs. It is totally irrelevant that the defendants might have preferred German workers. That they would have preferred not to commit a crime is no defense to its commission. The important fact is that Farben's Vorstand willingly cooperated in utilizing forced labor. They were not forced to do so. I cannot agree that there was an absence of a moral choice. In utilizing slave labor within Farben, the will of the actors coincided with the will of those controlling the Government and who had directed or ordered the doing of criminal acts. Under these circumstances the defense of necessity is certainly not admissible.

I am convinced that persons in the positions of power and influence of these defendants might in numberless ways have avoided the widespread participation in the slave labor utilization that was prevalent throughout the Farben organization. I cannot agree with the assertion that these defendants had no other choice than to comply with the mandates of the Hitler government. Had there been any real will to resist such comprehensive participation in the crime of enslavement, the defendants, possessing superior knowledge in their respective complicated technical fields, could no doubt have avoided such participation through a variety of devices of such imperceptible nature as to avoid the drastic results now portrayed in the posing of this defense. In reality, the defense is an after-thought, the validity of which is belied by Farben's entire course of action. To assert that Hitler would have "welcomed the opportunity to make an example of a Farben leader" is, in my opinion, pure speculation and does not establish the defense of necessity on the facts here involved.

The defense of necessity as accepted by the majority would, in my opinion, lead logically to the conclusion that Hitler alone was responsible for the major war crimes and crimes against humanity committed during the Nazi regime. If the defense of superior orders or coercion, as directed in the Charter of the IMT, was not recognized in the case of the principal defendants tried by that Tribunal as applied to defendants who were subject to strict military discipline and subject to the most severe penalties for failure to carry out the criminal plans decreed and evolved by Hitler, it becomes difficult to ascertain how any such

defense can be admitted in the case of the present defendants. The IMT judgment embraces no doctrinal defense of necessity by governmental coercion. That decision, it seems to me, constitutes complete negation of any such theory. Nor do I consider the precedent established by Military Tribunal No. IV in the case of United States v. Flick, et al (Case No. 5) persuasive in its recognition of the defense of "necessity." Such a doctrine constitutes, in my opinion, unbridled license for the commission of war crimes and crimes against humanity on the broadest possible scale through the simple expediency of the issuance of compulsory governmental regulations combined with the terrorism of the totalitarian or police state. The essence of a truly effective system of international penal law lies in its applicability to the acts of individuals who are not privileged to disregard the over-riding commands of international law when they come in conflict with the contrary policies or directives of a State not desiring to abide by the principles of international law. For these reasons, I have no hesitancy in rejecting the conclusions reached in the Flick case on this asserted defense and cannot agree with the majority in its application to the facts here proven.

In effect the majority opinion holds that, regardless of the extent of Farben's participation in the slave labor program, unless a particular defendant can be shown to have (a) exercised unusual initiative to bring about participation in the utilization of slave labor, no crime has been committed; or, (b) unless a defendant in the course of the administration of his particular role in the slave labor program shows an initiative going beyond the requirements of the cruel regulations no crime has been committed. Under this construction Farben's complete integration into production planning, which virtually meant that it set its own production quotas, is not considered as "exercising initiative." Even the Flick case did not go so far. Action by a defendant in requesting the allocation of labor, knowing that compulsory foreign workers would be assigned, is considered by the majority to be done pursuant to and under "necessity" and does not result in criminal liability. Under the majority view a defendant who is a plant manager may willingly cooperate in the execution of cruel and inhumane regulations, such, for example, as putting into effect the required discriminations as to food and clothing in the case of the Eastern workers, or putting the miserable workers beyond barbed wire fences; this was no more than complying with the requirements of

the Governmental regulations and, according to the majority opinion, does not result in criminal responsibility. Similarly, where the evidence establishes that a defendant was responsible for the erection of a disciplinary camp at a Farben plant or participated in the initiation of disciplinary measures against unruly compulsory workers - there is no criminal responsibility, the action is protected by the defense of "necessity" as the defendant did no more than that which the cruel and inhumane regulations required. Slave laborers might be reported to the Gestapo for punishment as this was required by the regulations and the defendant is not considered responsible. It cannot be successfully contended that this was not done in the Farben plants employing slave labor. I cannot concur in such results. The coercion exercised by a totalitarian police state in the form of commands to its citizens should not be permitted to operate as a complete negation of the opposing command of international penal law which has erected standards for the protection of basic human rights. Accessories and those taking a consenting part in the crime of enslavement should not be afforded such easy means of purging themselves of the fact of guilt. On the facts proven in this record, I am convinced that the defendants who were members of the Vorstand were accessories to and took a consenting part in the commission of war crimes and crimes against humanity as alleged in Count Three of the indictment.

Conceding arguendo the admissibility of the defense of necessity, as a matter of law, it is clearly not here admissible to result in acquittal of all defendants in the light of the finding of the majority as to Farben's initiative at Auschwitz. All defendants who were members of the Vorstand should share in the responsibility for the exercise of such initiative. The majority concedes such initiative to have existed at Auschwitz, as it was planned from the inception of the Farben Auschwitz Buna plant to use concentration camp labor on the project. I consider it unreasonable to conclude that these plans were not known by all Vorstand members. The majority opinion recognizes that Duerrfeld, Ambros, Krauch, ter Meer, and Buetefisch must bear responsibility for taking the initiative in the unlawful employment of forced workers at Auschwitz and that they, to some extent at least, must share the responsibility for the mistreatment of the workers with the SS and the construction contractors. The criminal responsibility so found should embrace all Vorstand members for the occurrences at Auschwitz. With regard to the numerous other plants in which slave labor was employed by Farben, no substantial factual distinction exists from that prevailing at Auschwitz, in the

matter of Farben's cooperative attitude.

As to the employment of forced foreign workers at Auschwitz after the Sauckel program of forced labor became effective, the majority opinion states:

"The defendants contend that, the recruitment of labor being under direct control of the Reich, they did not know the conditions under which the recruitment took place, and since the foreign workers at first were procured on a voluntary basis, the defendants were unaware later that the method had been changed and that many of the subsequent workers had been procured through a system of forced labor recruitment. This contention cannot be successfully maintained. The labor for Auschwitz was procured through the Reich Labor Office at Farben's request. Forced labor was used for a period of approximately three years, from 1942 until the end of the war. It is clear that Farben did not prefer either the employment of concentration-camp workers or those foreign nationals who had been compelled against their will to enter German labor service. On the other hand, it is equally evident that Farben accepted the situation that was presented to it through the Labor Office of the Reich and that when free workers, either German or foreigners, were unobtainable they sought the employment and utilization of people who came to them through the services of the concentration camp Auschwitz and Sauckel's forced-labor program."

The foregoing analysis of the responsibility for utilization of forced labor at Auschwitz is equally applicable to slave labor utilization at the other Farben plants where the situation was identical in fact. Willing cooperation with the slave labor utilization of the Third Reich was a matter of corporate policy that permeated the whole Farben organization. The Vorstand was responsible for the policy. For this reason, criminal responsibility goes beyond the actual immediate participants at Auschwitz. It includes other Farben Vorstand plant-managers and embraces all who knowingly participated in the shaping of the corporate policy. I find on the evidence that all Vorstand members must share the responsibility for the approval of the policy despite the fact that there were varying degrees of immediate connection among various defendants. The "freedom and opportunity for initiative" found to exist at Auschwitz was, in my opinion, equally present at the other plants. I find it hard to understand why the majority can conclude that construction and production at Auschwitz was not under Reich compulsion when the Reich wanted the plant for war production and directed its erection, and production involving utilization of slave labor in other plants was "under compulsion." The answer, it seems to me, lies in the fact that the freedom was as real in all the Farben plants and the similar attitude of willing cooperation was present - differing at Auschwitz only in the matter of degree. The majority opinion concludes that the defendant Krauch was a willing participant in the crime of enslavement. With that conclusion I agree, but the mere fact that Krauch was a governmental

official operating at a high policy level is insufficient, in my opinion, to distinguish his willing participation in the crime of enslavement from other degrees of willing participation exhibited by the other defendants according to their respective roles within Farben.

Criminal liability is not to be imputed to the officer of a corporation merely by virtue of his occupancy of his office. Generally a corporate officer is not criminally liable for the corporate acts performed by other agents or officers of a corporation. But the action of an officer of a corporation may result in criminal liability where, by virtue of the officer's individual act, he may be said to have authorized, ordered, abetted or otherwise has actually participated in a course of action which is criminal in character. The criminal intent required as a prerequisite to guilt under the charges of war crimes and crimes against humanity alleged in Count Three of the instant indictment is present if the corporate officer knowingly authorizes the corporate participation in action of a criminal character. On this score the evidence is more than sufficient. From the time of the participation by Farben in the Auschwitz project, the corporation was actively engaged in continuing criminal offenses which constituted participation in war crimes and crimes against humanity on a broad scale and under circumstances such as to make it impossible for the corporate officers not to know the character of the activities being carried on by Farben at Auschwitz. From the outset of the project it was known that slave labor including the use of concentration camp inmates would be a principal source of the labor supply for the project. Utilization of such labor was approved as a matter of corporate policy. To permit the corporate instrumentality to be used as a cloak to insulate the principal corporate officers who approved and authorized this course of action from any criminal responsibility (therefor is a leniency in the application of principles of criminal responsibility which, in my opinion, is without any sound precedent under the most elementary concepts of criminal law. It represents a doctrine which should not be permitted to gain a foothold in the application of criminal sanctions to the acts of individuals who are charged with such serious infractions of international penal law. The law does not require the degree of personal participation in the execution of crimes against international law that I understand the majority opinion to require. It matters not that, under the division of labor employed by I.G. Farben, supervision of the Auschwitz project fell in the sphere of immediate activity of

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certain of the defendants, i.e., ter Meer, Ambros, Bustefisch, and Duerrfeld. In my view, the Auschwitz project would not have been carried out had it not have been authorized and approved by the other defendants who participated in the corporate approval of the project knowing that concentration camp inmates and other slave labor would be employed in the construction and other work.

We do not have in this case a situation of complete delegation of authority to subordinates without knowledge of the criminal character of the action to be undertaken by those granting the authority for corporate action. We do not here have the situation of subordinates committing offenses against criminal law on their own initiative without the knowledge of the corporate officers. Decisions in Anglo-American law which decline to impose a vicarious criminal liability in such situations are not, therefore, strictly in point. There is, however, respectable authority for the imposition of criminal responsibility where the defendant was in a position to know and should have known of the illegal action carried out by a corporation through an agent. An analogy in Anglo-American law may be found in decisions dealing with the employment of child labor. For example, in the case of Overland Cotton Mill Co. et al v. People, 32 Colorado 263, 75 Pac. 924 (1904) the conviction of an assistant plant superintendent for violation of the child labor laws was sustained by the court despite the fact that he was not shown to have personally participated in the hiring of the minor. In discussing the liability of this officer, the court said:

"...An agent of a corporation is presumed to have that knowledge of its affairs particularly under his control and management which, by the exercise of due diligence, he would have ascertained....He [the assistant superintendent] was engaged at the mill, and, in the performance of his duties, had the authority to hire and discharge employees. It thus appears from the testimony that by reason of his relationship to the company, and the performance of his duties he either knew, or, by the exercise of due diligence upon his part, should have known, that a minor under the prohibited age was in the employ of the company. For this reason he must be held as having violated the statute, for it was within his power, by virtue of the relationship he bore to the company, to have prevented the employment. An officer of a corporation, through whose act the corporation commits an offense against the laws of the state, is himself also guilty of the same offense."

In this case offenses against international law (to which the defense of necessity is not applicable) were committed by Farben, the corporate instrumentality through which the individual defendants acted in consummating such criminal acts. The defendants who were members of the Vorstand of Farben and who were plant managers

certainly knew of and were active participants in the slave labor utilization. At the very least, they took a consenting part in war crimes and crimes against humanity as defined in Control Council Law No. 10. These plant managers not only knew of the action but they participated in executing and formulating the policies within Farben under which such action was taken. There is no sound reason, under the evidence, to render a judgment of exculpation in the cases of the defendants who were plant managers at Farben plants employing slave labor. The other defendants who were not plant managers but were members of the Vorstand were likewise apprised of and took a consenting part in approving and directing the policies under which Farben participated in the slave labor program on such a broad scale. They, too, should be held criminally liable. Essentially, we have action by a corporate board, participated in by its members, authorizing the violation of international law by other subordinate agents of the corporation.

Under the evidence presented there can be no doubt that the Farben Vorstand was responsible for general employment policies as well as the welfare of its workers. This responsibility was recognized in the Law Regulating National Labor and by the action of the Vorstand of Farben taken under the law to discharge its responsibilities in this regard. The appointment of the defendant Schneider as the Main Plant Leader of Farben was pursuant to this responsibility of the Vorstand and was in conformity with the mentioned law. Schneider frequently reported to members of the Vorstand and its committees on matters of labor policy.

The evidence shows Farben's willing cooperation in the utilization of forced foreign workers, prisoners of war and concentration camp inmates as a matter of conscious corporate policy. For example, in a report made by the defendant Schmits, as Chairman of the Vorstand, to the Aufsichtsrat (Supervisory Board) on 11 July 1941, Schmits stated:

"The factories have to make all efforts to get the necessary workers; by utilizing foreign workers and prisoners of war the demand could be generally met."

This report was after the 1939 German decree introducing forced labor in Poland. The evidence shows that Farben took the initiative to obtain Polish workers and that such workers were actually employed as early as 1940. In the light of the historical facts establishing the compulsory nature of the slave labor program of Nazi Germany, it is impossible to avoid the conclusion that the Polish workers

included large numbers of enslaved persons. It is further certain that of the voluntary foreign workers originally employed many were later prohibited from leaving their employment had they chosen to do so. This also constituted enslavement. The subsequent retention of such workers in a state of servitude constituted war crimes and crimes against humanity in violation of Control Council Law No. 10.

Farben's willing cooperation with the slave labor program continued even after its inhumane character became more evident with the appointment of Sauckel as Plenipotentiary General for the Utilization of Labor. On 30 May 1942, the defendant Schmits again reported to the Aufsichtsrat that the lack of workers had to be compensated by the employment of foreigners and prisoners of war. A credible witness, Struss, stated that practically everybody in Germany knew that Russian workers were forced to come to Germany after the battle of Kiev. The members of Farben's Vorstand, therefore, necessarily knew that such forced workers were being employed by Farben and they approved and cooperated in the execution of such a labor policy. It is highly unrealistic to say, as important as labor procurement was to the vital matter of German war production, that persons occupying the positions of influence and responsibility of a Vorstand member of Farben were not well informed concerning the policies of the compulsory labor program in which Farben participated on such a large scale. It is not necessary for the evidence to establish that each defendant was informed of all of the details of each major instance of such employment and personally exercised initiative. There is an abundance of evidence from which knowledge of the widespread participation by Farben as a matter of official corporate policy, sanctioned and approved by the individual Vorstand members, is conclusively to be inferred. For example, the Vorstand and its subsidiary committees had to approve the allocation of funds for the housing of compulsory workers. This meant that members of the Vorstand had to know the extent of Farben's willing cooperation in participating in the slave labor program and had to take an individual personal part in furthering the program.

As to the Auschwitz Buna plant, the evidence conclusively establishes that Farben took the initiative in the selection of the Auschwitz site and that an important factor, if not the decisive one, was the knowledge of availability of concentration camp inmates for work in the construction of the plant. As pointed out by the majority opinion, it was contemplated from the start that concentration camp labor would be used in such work. But, in my view, the individual liability for the carrying out of such plans goes further than the individual acts and actions

of Krauch, Ambros, ter Meer, Buetevisch and Duerrfeld. In discussing the criminal responsibility of the defendant ter Meer, the Tribunal quite properly asserts that it would be unreasonable to conclude that conferences between the defendants Ambros and ter Meer did not include discussions of the all-important question of labor supply for the construction of the Auschwitz Buna plant and that it was consequently known to ter Meer that officials in charge of the Auschwitz plant construction were taking the initiative in planning for and availing themselves of the use of concentration-camp labor. With this conclusion, I agree but, in my opinion, it is similarly unreasonable to conclude that the reports to the Vorstand on the Auschwitz project ignored these matters. Just as ter Meer was the superior of Ambros, the Vorstand was the superior of both and there is no reason to conclude that the knowledge possessed by Ambros and ter Meer was not fully reported to and discussed in the Vorstand. There is, indeed, strong positive evidence that this was done and that it must have been done is a proper inference of fact to be drawn from the very nature of the serious responsibility being undertaken by Farben in becoming involved in the slave labor utilization to the extent that it did at Auschwitz.

The defendants Gajewski, Hoerlein, Buerger, Jaehne, Kuehne, Lautenschlaeger, Schneider and Wurster, in their capacities as plant leaders or managers of one or more of the important plants of Farben and as members of the Technical Committee participated in the utilization of slave labor, in plants under their jurisdiction, and actively participated in furthering the policy of slave labor utilization within the Farben enterprises. They should all be held guilty under Count Three of the indictment.

Although the duties of the defendants Schaetz, von Schnitzler, von Knieriem, Haefliger, Ilgner, Mann and Oster were not directly related to the management of any specific plant or project in which slave labor was employed, they did know of the policy throughout the Farben organization. As members of the Vorstand, they tacitly approved such policy. In my view, it is not necessary for them as individuals personally to take the initiative in procurement or allocation of such labor. It suffices that they knowingly approved of the policy of slave labor utilization and that is, I conclude, abundantly established by the record.

A construction project of the magnitude of Auschwitz could not have been initiated unless adequate reports were made to the Vorstand on the more important factors which influence the selection of an industrial site including the source of and availability of labor. I am convinced that Krauch spoke the truth in his pre-trial affidavit when he stated that Farben could agree to or refuse

to erect the Buna plant at Auschwitz; that the site was selected by Ambros and report was made to the Farben Vorstand of the factors considered, including labor; and that the members of the Executive Board of Farben(Vorstand) "were informed of the employment of concentration camp inmates with the I.G. Buna plant at Auschwitz and did not protest." In other words, there can be no doubt that the Farben Vorstand approved the policy of employing concentration camp inmates in the erection of the Auschwitz Buna plant and did not object as it was their duty to do.

This, in my opinion, constitutes affirmative action of approval by the members of the Vorstand and leads inescapably to their criminal complicity within the degree of participation required by Control Council Law No. 10, as constituting taking a consenting part in the action. I cannot agree with the majority that it is necessary for the evidence to show an abnormal degree of initiative on the part of each defendant in seeking such labor or in participating in negotiations to obtain it. These are matters far below the policy level at which many of the defendants operated. But it suffices that they knew the policy and tacitly approved. Certain of the defendants were more intimately concerned with the execution of the project than others, but that does not, in any sense, detract from the complicity of the other corporate officials, sitting on the governing board or Vorstand of Farben, and who are shown by the evidence to have known what was in progress and who gave their consent thereto by their inaction and acquiescence and by not objecting. Corroborating evidence is found in the pre-trial affidavits of defendants Bueteffisch and Schneider. Furthermore, members of the Technical Committee(TSA), including defendants ter Meer, Schneider, Bueteffisch, Ambros, Lautenschlaeger, Jaehne, Hoerlein, Kuehne, Buerger, Gajewski, and von Knieriem(as guest) participated in meetings at which reports were made on the Auschwitz project and huge appropriations were made for the work. It taxes credulity to say that these important corporate officials were not informed in a general way of the major developments in the all-important matter of labor procurement. I conclude, from the evidence, that they were bound to know, as a prerequisite to the proper discharge of their duties, of such a major development as the Goering Order of 18 February 1941, issued at the request of the defendant Krauch and addressed to Reichsfuehrer SS. Himmler directing that concentration

camp inmates be made available for the construction of the Buna plant at Auschwitz. There is, in my opinion, absolutely no merit to the defense that the defendants were "forced" to use concentration camp inmates, or that they were ignorant of Farben's plans being executed at Auschwitz.

The true attitude of Farben and the flimsy character of the defense of coercion and necessity asserted by the defendants is best illustrated by defendant Krauch's letter to Himmler written in July, 1943 wherein Krauch wrote that he was

"particularly pleased to hear that during this discussion you hinted that you may possibly aid the expansion of another synthetic factory...in a similar way as was done at Auschwitz by making available inmates of your camps, if necessary. I have also written to Minister Speer to this effect and would be grateful if you would continue sponsoring and aiding us in this matter."

I conclude that all members of the Vorstand viewed the availability of such labor and its subsequent employment at Auschwitz as an "assistance" to Farben and all defendants must share in the responsibility for its utilization. The evidence established that consistent procedures for dissemination of information among key Farben personnel were regularly followed as a matter of policy. It is certain that, through this medium, at the very minimum, knowledge came to the more important Farben officials of the extent of Farben's participation in the slave labor utilization at Auschwitz. The increase in inmates at Auschwitz from seven hundred in 1941 to more than seven thousand by the end of 1943 could not have been unknown to the defendants who were members of Farben's Vorstand.

Having accepted a large scale participation in the utilization of concentration camp inmates at Auschwitz, and, acting through certain of its agents, having exercised initiative in negotiating with the SS to obtain more and more workers, Farben became inevitably connected with the inhumanity involved in the utilization of such labor. The majority opinion, in effect, by recognizing the defense of necessity, implies that if the defendants in the operation of the slave labor program did no more than the cruel and inhuman regulations prescribed, those participating in the utilization of labor under such a condition of servitude are not responsible therefor. I cannot agree. The evidence establishes that the conditions under which the concentration camp workers were forced to work on the Farben site at Auschwitz were inhumane in an extreme degree. It is no overstatement, as the prosecution asserts, to conclude that the working conditions indirectly resulted in the deaths of thousands of human beings. These defendants may not, themselves,

have subjectively willed the deaths of the unfortunate victims, who were subsequently exterminated by the SS in the gas chambers, but their part in the utilization of the inmates under such conditions was a link of the entire hideous criminal enterprise and I cannot minimize in the slightest degree the heavy responsibility which Farben and its responsible managers - the members of the Vorstand must bear in this regard. Farben's sympathy and identity with the whole enterprise found further expression in the erection by Farben of its own concentration camp, Monowitz, in 1942. Funds for this purpose were appropriated by the TZA and the Vorstand after consideration of the need - showing again the widespread knowledge within Farben of the extent of utilization of the concentration camp inmates.

The extreme cold, the inadequacy of the food, the rigorous nature of the work, the cruel treatment of the workers by their supervisors, combine to present a picture of horror which, I am convinced, has not been at all overdrawn by the prosecution and which is fully sustained by the evidence. The living and working conditions were in truth unendurable and, as these inmates were engaged in Farben's business, it was the responsibility of Farben to correct the situation. Such efforts at amelioration of the conditions as were attempted to be shown, fall short of any adequate effort to meet the real responsibility imposed on Farben in this regard. It must be borne in mind that these men were misused as slaves by Farben, through Farben's own initiative and out of Farben's desire to utilize them as the means of furthering the building of a plant whose immediate purpose was to be war production but which was to be fitted into the long-range plans of Farben's domination of the eastern economic area. Consequently, in view of the degree of the initiative, the duty to the workers must be regarded as a higher duty. Farben's efforts fall far short of the requirement.

Among the credible witnesses whose testimony was offered to the Tribunal were a number of British prisoners of war who described the pitiable lot of the inmates working on the Farben site at Auschwitz. There was highly creditable evidence from these eye-witnesses to establish - that the inmates were skinny and not physically fit for the work they were forced to do; that their appearance was such as to make it hard to believe that they were human beings; that they all suffered from malnutrition; that the so-called "buna soup" was thin and watery and inadequate; that the inmates were being starved to death. I am convinced from this evidence that Farben did not discharge the high responsibility imposed upon it

in the matter of seeing that its compulsory workers were adequately fed, and responsibility for this situation cannot be shifted by the defendants to the SS and the Farben subcontractors.

The evidence further establishes conclusively that the working conditions on the Farben construction site at Auschwitz were inhuman. The miserable inmates were forced to work beyond their physical capacities. They were subjected to rigorous discipline in the performance of work assignments and there was a direct relationship between the requirements set by Farben and the ill-treatment accorded the inmates by the SS. The son of the defendant Jaehne has testified:

"Of all the people employed in I.G. Auschwitz, the inmates received the worse treatment. They were beaten by the capos, who in their turn had to see to it that the amount of work prescribed them and their detachments by the I.G. foreman was carried out, because otherwise they were punished by being beaten in the evening in the Monowitz Camp. A general driving system prevailed on the I.G. construction site, so that one cannot say that the capos alone were to blame. The capos drove the inmates in their detachments exceedingly hard, in self-defense, so to speak, and did not shrink from using any means of increasing the work of the inmates, just so long as the amount of work required was done."

I am convinced that this is a true description of what actually happened at Auschwitz and from the vast amount of credible evidence introduced before the Tribunal I am further convinced that it was true, as contended by the prosecution, that it was Farben's drive for speed in the construction at Auschwitz which resulted indirectly in thousands of the inmates being selected for extermination by the SS when they were rendered unfit for work. The proof establishes that fear of extermination was used to spur the inmates to greater efforts and that they undertook tasks beyond their physical strength as a result of such fear. It is also clear from the proof that injured or ill inmates frequently refrained from seeking medical treatment out of fear of being sent for extermination to the gas chambers at Birkenau. The defendants, members of the Vorstand, cannot, in my opinion, avoid sharing a large part of the guilt for these numberless crimes against humanity. The condition of the inmates being worked by Farben could not have been unknown to the principal corporate officials. The truth of the matter is related by the witness Frost, a British prisoner of war:

"In addition to the I.G. foreman and other officials at Auschwitz, every once in a while big shots from the main firm would come down to the plant. In my opinion nobody who worked at the plant or who came into the plant on business or inspections could avoid discovering the fact that the inmates were literally being worked to death. They had no color in their faces whatsoever. They were practically living corpses covered with skin and bone and completely broken in spirit. Everyone who was there knew that the inmates were kept there as long as they turned out work and that when they were physically unable to continue, they were disposed of."

In summary, it is established that Farben selected the Auschwitz site with knowledge of the existence of the concentration camp and contemplated the use of concentration camp inmates in its construction; that these matters necessarily had to be reported to and discussed by the Vorstand and the TEA; that Farben initiative obtained the inmates for work at Auschwitz; that the project was constantly before the members of the TEA for necessary appropriation of funds; that the TEA had to have information on the labor aspects of the project to properly perform its functions; that the condition of the concentration camp inmates was brought to the attention of the TEA and Vorstand members in various discussions and reports; that a number of the defendants were actually eye witnesses to conditions at Auschwitz because of personal visits to Auschwitz; that the defendants Krauch, von Knieriem, Schneider, Jaehne, Ambros, Buetafisch, and ter Meer were all shown to have visited the I.G.Auschwitz site during occurrences of the nature generally described above; that the conditions at Auschwitz were so horrible that it is utterly incredible to conclude that they were unknown to the defendants, the principal corporate directors, who were responsible for Farben's connection with the project.

A letter written by a Farben employee at I.G.Auschwitz to a Farben employee at Frankfurt on 30 July 1942 describes the enterprise in which these defendants must be considered as taking a consenting part as follows:

"...You can imagine that the population is not going to behave in a friendly or even correct manner toward the Reich Germans, especially towards us I.G. people. The only thing that keeps these filthy people from becoming rebellious is the fact that armed power (the concentration camp) is in the background. The evil glances which are occasionally cast at us are not punishable. Apart from these facts, however, we are quite happy here. ...

"With a staff of such a size, you can well imagine that the number of accommodation barracks is constantly increasing and that a large city of shacks has developed. In addition to that, there is the circumstance that some 1,000 foreign workers see to it that our food supply does not deteriorate. Thus we find Italians, Frenchmen, Croats, Belgians, Poles, and, as the 'closest collaborators' the so-called criminal prisoners of all shades. That the Jewish race is playing a special part here you can well imagine. The diet and treatment of this sort of people is in accordance with our aim. Evidently, an increase in weight is hardly ever recorded for them. That bullets start whizzing at the slightest attempt of a 'change of air' is also certain as well as the fact that many have already disappeared as a result of a 'sunstroke.'"

It is contended by the defense that the construction of the Farben concentration camp Monowitz was to improve the living standards of concentration camp inmates who formerly lived in the Auschwitz concentration camp. Such contention is refuted by contemporaneous documents which establish that far from any such humanitarian motive the true motive was to obtain the labor which had been interrupted due to the typhus epidemic of 1942. The defendant Krauch admitted that Ambros and Buestefisch "proposed to the executive board of the I.G. to erect the concentration camp Monowitz within the I.G. territory Auschwitz for reasons of expediency." I am convinced from the proof that the purpose in erecting the camp was to obtain the concentration camp labor and to make it more productive by eliminating the transportation to and from the main concentration camp. The food bonus system, also pointed to by the defense, was introduced to increase the output of the workers and was administered with this as the predominant consideration. Moreover, it did not actually improve the miserable lot of the majority of the workers. It is never a defense in a criminal case to point to instances in which criminal action is not involved. The evidence does not convince me of any serious efforts by Farben to remedy the food situation at Auschwitz and I am unable to find evidence of a mitigating nature in this regard.

We have in this case the absurd contention urged that the fence around the premises of the Farben plant was erected, not for the purpose of making the servitude of the workers more secure, but for the purpose of giving the inmates more freedom and keeping the SS out of the premises. Here, again, the contemporary documents establish that the purpose of the construction of the fence was to meet suggestions of the SS that this be done to make possible assignment of more inmates under conditions requiring fewer guards.

The overwhelming weight of the evidence is to the effect that the living conditions in Farben's camp Monowitz added greatly to the misery of the workers. The quarters were overcrowded, the water, toilet, and other sanitary facilities were inadequate. The devastating effect of the cold weather upon the undernourished and underclothed inmates has, in my opinion, been established by overwhelming credible proof. The attempt of Farben to ameliorate this situation by providing winter coats in 1944 shortly before the evacuation of Auschwitz can hardly be said to operate as exculpation for the misery and mistreatment as related in the statements of numerous eye witnesses to these conditions. The defense has introduced voluminous documents,

affidavits, and some testimony in an attempt to controvert the overwhelming weight of the prosecution's evidence. I do not consider that this evidence presented by the defense is sufficiently credible to raise a reasonable doubt on the subject of mistreatment.

The contemporaneous documents introduced by the defense fall far short of detracting from the prosecution's proof. On cross-examination by the prosecution, in a sampling process, the defense affiants who were leading employees of Farben at the Auschwitz site made numerous damaging admissions seriously detracting from the weight and credibility of the previous testimony given in their affidavits. Defense affiants who were called for cross-examination by the prosecution fell into three categories - those from whom testimony corroborating the damaging evidence of the prosecution was obtained on cross-examination; those whose credibility was completely destroyed on cross-examination; and those whose affidavits were withdrawn by the defense, in some instances, even after appearance at Nurnberg. I conclude that very little weight is to be attached to the affidavits introduced by the defense. Unless we are to resort to weighing the evidence by the bulk and number of affidavits, the prosecution has established Farben's participation in the mistreatment of the concentration camp inmates at Auschwitz in an aggravated degree. At the very minimum it was the responsibility of defendant Schneider and the members of the Vorstand shown to have visited Auschwitz to have succeeded in correcting these conditions. This, these defendants did not do, and they should be held criminally responsible for these aggravations of the crime of enslavement, in addition to their responsibility for participation in the utilization of slave labor.

No useful purpose would be served in an analysis of the evidence in detail as applied to each individual defendant. The guilt varies in degree with each defendant and his functions in Farben must be considered. It is untenable, however, in my opinion, to say that Schmitz, the Chairman of Farben's Vorstand, bears none of the responsibility for Farben's participation in the slave labor program, including occurrences at Auschwitz, or that Schneider, Farben's Main Plant Leader in the labor field is not responsible. International law cannot possibly be considered as operating in a complete vacuum of legal irresponsibility - in which crime on such a broad scale can be actively participated in by a corporation exercising the power and influence of Farben without those who are responsible for participating in the policies being liable therefor. What is true of Schmitz, Chairman of the Board, is true of the other managers of Farben in varying degrees.

Anschwitz has been chosen in this summation as it is the most aggravated of Farben's many participations in the slave labor program. In such treatment of the evidence, it must be noted that the various defendants who were plant managers were, in most instances, also active participants in the utilization of slave labor in plants under their jurisdiction, and in instances in which this was not the case the defendants knew of, acquiesced in, approved, and were consequently responsible for the Farben policy involved in such utilization. To review the evidence in detail as to each defendant, or as to each Plant Manager, in this opinion, would lengthen the opinion beyond any reasonable bounds. With respect to the Western workers employed in Farben plants, mitigating circumstances have been shown in regard to the treatment of some of these workers. It suffices, therefore, to conclude this separate expression of views by merely stating that I am of the opinion that each defendant who is a member of the Vorstand should be held guilty under Count Three of the indictment and that I disagree with the majority in the acquittal of defendants Schmitz, von Schnitzler, Gajewski, Hoerlein, von Knieriem, Schneider, Buerger, Haefliger, Ilgner, Jaehne, Kuehne, Lautenschlaeger, Mann, Oster, and Wurster. These defendants are, in my opinion, guilty subject to such individual consideration of mitigating circumstances as should be considered in fixing their punishment.



Paul M. Hebert
 Paul M. Hebert, Judge
 Military Tribunal VI

MILITÄRGERICHT no. VI

Fall No. 6

Die Vereinigten Staaten von Amerika

-gegen-

CARL KRAUCH u.a.

Stempel:
Registriert
28 Dezember 1948
Secretary General
for Military Tribunals
Nurnberg, Germany

Abweichende Urteilsbegründung

betreffe

Anlagepunkt Nr. DREI der Anklageschrift

von

RICHTER PAUL M. HERBERT



MILITÄRGERICHT No. VI der VEREINIGTEN
STAATEN, JUSTIZPALAST, NUERNBERG,
DEUTSCHLAND

DIE VEREINIGTEN STAATEN VON AMERIKA :

-gegen-

CARL KRAUCH, HERMAN SCHMITZ,
GEORG VON SCHWITZLER, FRITZ
GAJEWSKI, HEINRICH HÖRLEIN,
AUGUST VON KWIETZKI, FRITZ TER
HEER, CHRISTIAN SCHNEIDER, OTTO
KREBS, ERNST BUECKIN, HEINRICH
BUTZTISCH, PAUL HAEFLIGER, MAX
ILGNER, FRIEDRICH JAEHNE, HANS
KUEHN, CARL LAUTENSCHLAGER,
WILHELM MANN, HEINRICH OSTER,
KARL WURSTER, WALTER KUERFELD,
HEINRICH SATTINER, ERICH VON
DER WEIDE, UND HANS KUGLER,
officials of I.G. FARBEINDUSTRIE
AKTIENGESELLSCHAFT

Fall No. 6

Angeklagte

Abweichende Urteilsbegründung

Anklagepunkt DREI der Anklageschrift

Ich unterbreite diese abweichende Urteilsbegründung aufgrund des Vorbehalts, den ich bei der Urteilsverkündung des Militärgerichts Nr. 6 in diesem Falle geltend gemacht habe. Unter Anklagepunkt DREI der Anklageschrift wird allen Angeklagten zum Vorwurf gemacht, dass sie Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im Sinne des Artikels II des Kontrollratsgesetzes Nr. 10 begangen hätten. Es wird in der Anklageschrift behauptet, dass die Angeklagten in gigantischen Umfang an der Versklavung und Verschleppung zur Zwangsarbeit von Mitgliedern der Zivilbevölkerung von Ländern und Gebieten teilgenommen hätten, welche unter der kriegsmässigen Besetzung oder auf sonstige Weise unter der Herrschaft Deutschlands standen, dass sie ferner teilgenommen hätten an der Versklavung der Insassen von Konzentrationslagern einschliesslich deutscher Staatsangehöriger; an der Verwendung von Kriegsgefangenen fuer Kriegshandlungen und fuer Arbeiten, die sich unmittelbar auf Kriegshandlungen bezogen einschliesslich der Herstellung und Befoerderung von Kriegsmaterial und Kriegsausruestung;

und an der Misshandlung, Terrorisierung, Folterung und Ermordung von versklavten Menschen. Es wird ferner die Behauptung aufgestellt, alle Angeklagten hatten diese Kriegsverbrechen und Verbrechen gegen die Menschlichkeit verübt in dem sie als Täter oder Beihelfer solche Verbrechen befohlen, begünstigten, durch ihre Zustimmung daran teilnahmen, mit ihrer Planung oder Ausführung im Zusammenhang standen, und Organisationen oder Vereinigungen, einschliesslich I.G. angehört hatten, die mit ihrer Ausführung im Zusammenhang standen.

Die Anklageschrift enthaelt weiter allgemeine Behauptungen, dass die Angeklagten sich bei der Begabung dieser Verbrechen einer juristischen Person, der I.G. Farbenindustrie A.G., bedient hatten.

Das Tribunal hat die Angeklagten Krauch, Ter Meer, Ambros, Buchtafisch und Duerrfeld im Zusammenhang mit diesem Anklagepunkt hauptsächlich deswegen verurteilt, weil sie bei der Beschaffung von Slavenarbeitern fuer den Bau der Buna-Anlage der I.G. in Auschwitz die Initiative ergriffen hatten. Die uebrigen 18 Angeklagten wurden in Zusammenhang mit dem Vorbringen des Anklagepunktes Nr. 3 saemtlich freigesprochen. Unter dieser Gruppe der freigesprochenen Angeklagten befanden sich 15 Mitglieder des Vorstandes, des bedeutendsten Verwaltungsgremiums der I.G. Unter den freigesprochenen Vorstandsmitgliedern befanden sich die folgenden Herren: Schmitz, von Schnitzler, Buehring, Haefliger, Ilgner, Jaehne, Oster, Gajewski, Hoerlein, von Kaiserin, Schneider, Kuchne, Lautenschlager, Mann und Wurster. Die Mehrheit hat zugestanden, was auf Grund des Tatbestandes in diesem Fall nicht ernstlich bestritten werden ist, dass Sklavenarbeit, d.h. Zwangsarbeit von Auslaendern, Konzentrationslagerinsassen und Kriegsgefangenen in zahllosen Anlagen der eigentlichen I.G. Organisation eingesetzt worden ist und dass die Angeklagten hiervon Kenntnis hatten. Die Mehrheit kam zu dem Schluss, dass mit der Ausnahme von Auschwitz, wo es als bewiesen angesehen werden konnte, dass die I.G. die Initiative ergriffen habe, eine freiwillige Mitarbeit darstelle keine strafrechtliche Verantwortung fuer Beteiligung am dem Einsatz von Sklavenarbeit sich ergebe. Das Grundargument der Mehrheit im Zusammenhang mit Anklagepunkt DREI war, dass die I.G., um die Produktionsauflagen des Reiches erfuellen zu koennen, "dem Druck des Reichsarbeitsamtes nachgegeben habe, und deshalb auslaendische Zwangsarbeiter in vielen ihrer Anlagen zur Arbeit eingesetzt habe". Die Mehrheit behauptet, dass "der Einsatz von Zwangsarbeit, so fuer sich nicht unter Umstaenden zustande gekommen sei, welche den Arbeitgeber seiner Verantwortlichkeit entheben, eine Verletzung desjenigen Teiles des Artikels II des Kontrollratsgesetzes Nr. 10 darstelle, nach

welchem die Versklavung, Verschleppung oder Gefangenhaltung der Zivilbevölkerung anderer Länder Kriegsverbrechen und Verbrechen gegen die Menschlichkeit darstelle". Jedoch macht sich die Mehrheit des Verteidigungsargument zu eigen, nach dem der Einsatz von Sklavenarbeit durch die I.G. "mit der Ausnahme von Auschwitz" die Folge der erzwungenen Produktionsaufläufe und anderer zwangsartiger Regierungsaufträge und Bestimmungen über den Einsatz von Sklavenarbeit gewesen sei. Das Verteidigungsargument vom "Notstand" wird auf Grund des Terrors, welcher damals im Reich herrschte und auf Grund der für die Angeklagten sich eventuell ergebenden furchtbaren Folgen, wenn sie irgend etwas anderes unternommen hätten, als sich in das Sklavenarbeitssystem des Dritten Reiches zu fügen, aufrecht erhalten.

Ich stimme mit der Verurteilung der vom Tribunal als schuldig befundenen fuenf Angeklagten vollstaendig ueberein, jedoch erstreckt sich meiner Ansicht nach die strafrechtliche Verantwortlichkeit auf mehr Personen als die fuenf Angeklagten, die mit dem Bau der Buna-Anlage der I.G. in Auschwitz unmittelbar verbunden sind. Meiner Ansicht nach sollten saemtliche Vorstandsmitglieder der I.G. im Zusammenhang mit Anklagepunkt IREI der Anklageschrift fuer schuldig befunden werden, nicht nur wegen der Rolle, welche die I.G. in dem Verbrechen der Versklavung in Auschwitz gespielt hat, sondern auch weil die I.G. sich an dem Sklavenarbeitssystem in den anderen I.G. Betrieben in denen, wie das Beweismaterial zwingend beweist, Zwangsarbeit unter Verletzung der klar definierten Grundsatzes des Voelkerrechts im Sinne des Kontrollratsgesetzes Nr. 10 zum Arbeitsersatz gekommen ist bis zu einem hohen Grade beteiligt und aus freien Stuecken daran mitgearbeitet hat. Ich stimme nicht ueberein mit der Schlussfolgerung, dass das Verteidigungsargument des Notstandes auf die in diesem Prozess erwaehnten Tatsachen zutrifft.

Obgleich es stimmt, dass es zahlreiche Regierungsbestimmungen gegeben hat, durch welche die Reichsregierung den Arbeitsersatz vollstaendig beherrschte, beweist die Tatsache, dass derartige Kontrollen existierten meiner Ansicht nach keineswegs das Verteidigungsargument vom Notstand, selbst unter Umstaenden, wie sie damals im nationalsozialistischen Deutschland existierten. Die Anerkennung dieses Verteidigungsargumentes laesst sich meiner Ansicht nach keineswegs vereinbaren mit den Bestimmungen des Kontrollratsgesetzes Nr. 10, welches klar hervorhebt, dass Zwang, wenn er von der Regierung misgoubt wird, hochstens als milderaender Umstand gewertet werden darf, aber keineswegs als Entlastung. Im Abschnitt 4 (b) des Artikels II des Kontrollratsgesetzes Nr. 10 z.B. heisst es:

"Die Tatsache, dass jemand auf Befehl seiner Regierung oder seines Vorgesetzten gehandelt hat, befreit ihn nicht von der Verantwortlichkeit fuer ein Verbrechen; sie kann aber als strafmildernd beruecksichtigt werden."

Aus dem Beweisvortrag geht klar hervor, dass die Angeklagten beim Einsatz von Sklavenarbeit, welcher zurechenbarer Weise (in Falle von Nichtdeutschen) ein Kriegsverbrechen und ein Verbrechen gegen die Menschlichkeit ist, tatsächlich nicht, wie sie behaupten, nur auf Grund des Druckes und des Zwanges unter welchem sie durch die damals bestehenden Befehlsbestimmungen und Befehle standen, gehandelt haben. Es findet sich im Beweisergebnis kein einziger glaubwürdiger Beweis dafür, dass irgendeiner der Angeklagten tatsächlich der offiziellen Lösung des Arbeitseinsatzproblems, wie sie sich in diesen Bestimmungen widerspiegelt, ablehnend gegenüber stand. Es geht im Gegenteil aus dem Beweisergebnis hervor, dass die I.G. aus freien Stücken mitgearbeitet hat und jede neue Arbeitsquelle frohen Herzens ausgenutzt hat, sowie sie sich auftat. Die Ausserachtlassung der grundsätzlichen Menschenrechte hat diese Angeklagten keineswegs abgeschreckt. Manchmal gaben sie ihren Bedenken über die Unmoralität der Zwangsarbeit Ausdruck aber sie arbeiteten aus freien Stücken an dem tyrannischen System mit. Meiner Ansicht nach geht aus dem Beweisergebnis nicht nur nicht hervor, dass die Angeklagten in diesem Zusammenhang im "Notstand" oder unter "Zwang" gehandelt haben, sondern vielmehr, dass die I.G. die Zwangsarbeiter, einschliesslich ausländischer Zwangsarbeiter, Konzentrationslagerinsassen und Kriegsgefangener, für Rüstungsarbeit angenommen hat und sich häufig sogar um sie bemüht hat, weil dies die einzige Weise war, auf welche das Arbeitseinsatzproblem gelöst werden konnte.

Die I.G. und diese Anordnungen wussten den Produktionsauflegen, die der deutschen Kriegsführung zu Gute kamen, nachzukommen. Tatsächlich wurden die Produktionsauflegen der I.G. weitgehend von der I.G. selbst bestimmt, weil die I.G. vollständig in den gesamten deutschen Kriegsproduktionsprogramm mitbezogen war. Die Planungsbeamten der I.G., unter der Leitung des Direktors Krusch, brachten die Kapazitäten der I.G. mit den Kriegsbedarfslücken in Einklang. Die Tatsache, dass die Anordnungen vielleicht deutsche Arbeiter vorsezten hatten, ist zynisch belanglos. Die Tatsache, dass sie das Verbrechen lieber nicht begangen hätten, ist keine Entschuldigung dafür, dass sie es tatsächlich begangen haben. Der wichtigste Faktor ist hier, dass der Vorstand der I.G. aus freien Stücken bei der Ausnutzung von Zwangsarbeitern mitwirkte. Er war dazu nicht gezwungen. Ich kann der Ansicht, dass sie vom moralischen Standpunkt keine Wahl hatten, nicht beipflichten. Bei der Ausnutzung der Sklavenarbeit innerhalb der I.G., folgte die Absichten der Beteiligten mit den Absichten derjenigen zusammen, welche Zwangsangewalt hatten, und die die Ausführung der Verbrechen geleitet oder befohlen hatten. Unter diesen Umständen ist das Verteidigungsargument von Notstand keineswegs zulässig.

Ich bin überzeugt, dass Männer, die so einflussreiche und entscheidende Stellungen innehatten, wie diese Anordnungen, in vielerlei Hinsicht sich der weitgehenden Beteiligung an der Ausbeutung von Zwangsarbeit, wie sie sich in der ganzen I.G. Organisation fand, hatten entziehen können. Ich kann der Behauptung, diese Anordnungen hätten keine Wahl gehabt, sie hätten sich den Anordnungen der Hitlerregierung fügen müssen, nicht beipflichten. Wenn die Anordnungen wirklich gewillt gewesen, sich gegen derartige misdehnte Teilnahme an dem Verbrechen der Sklaverei zu wehren, wären sie, zweifellos, auf Grund ihres überragenden Wissens auf ihren komplizierten technischen Gebieten, in der Lage gewesen, sich durch eine Anzahl von Kunstgriffen, dieser Teilnahme zu entziehen, Kunstgriffen die so unauffällig hätten sein können, dass die Anordnungen von den drastischen Folgen, wie sie die Verteidigung jetzt beschreibt, nicht betroffen worden wären. In Wirklichkeit handelt es sich bei dem Vorbringen der Verteidigung um eine nachträgliche Unterstellung.

deren Gueltigkeit durch die gesamte Taetigkeit der I.G. in Frage gestellt wird. Die Behauptung, dass Hitler "die Gelegenheit an einem I.G. Farben Fuehrer, ein Exemple zu statuieren, freudig begruesst haben wurde" beruht, meiner Ansicht nach, auf reiner Spekulation, und begruendend keineswegs das Verteidigungsargument vom Notstand auf Grund des hier vorliegenden Tatbestandes.

Das Verteidigungsargument vom Notstand, wie es die Mehrheit angenommen hat, wurde, meiner Ansicht nach, logischerweise zu dem Schluss fuehren, dass Hitler und nur Hitler fuer die waehrend der Zeit des Naziregimes begangenen ernstesten Kriegsverbrechen und Verbrechen gegen die Menschlichkeit verantwortlich sei. In Anbetracht der Tatsache, dass das Verteidigungsargument vom hoeheren Befehl oder vom Zwang auf Grund des IIT Statute, in den Verhandlungen vor diesem Tribunal bezueglich der Angeklagten welche strenger militaerischer Disziplin unterworfen waren, und welche ausserst schwere Strafen fuer Nichtbefolgung der von Hitler beschlossenen und entwickelten verbrecherischen Plaene zu gewaertigen hatten, nicht anerkannt worden ist, wird es schwer fallen, festzustellen, aus welchen Gruenden man ein solches Verteidigungsargument im Falle dieser Angeklagten zulassen soll.

Im I.E. Urteil findet sich keinerlei juristische Verteidigung des durch Berufungszwang hervorgerufenen Notfalles. Diese Entscheidung bedeutet meiner Ansicht nach die vollständige Ablehnung einer derartigen Theorie. Ich bin auch nicht der Ansicht, dass der von Militartribunal Nr. IV im Prozess der Vereinigten Staaten gegen Flick u.a. (Fall Nr. 5) aufgestellte Prozessdilemmafall in seiner Anerkennung des Verteidigungsarguments von "Notstand" überzeugend wirkt. Solch eine Theorie bringt meiner Ansicht nach unangenehme Willkür in der Begabung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im weitest möglichsten Ausmaße einfach durch den Erlass von kriegsartigen offiziellen Bestimmungen zusammen mit dem Terrorismus des Totalitären oder Polizeistaates mit sich. Das Wesen eines wirklich zweckmassigen Systems des Völkerstrafrechtes besteht in dessen Anwendbarkeit auf von solchen Einzelpersonen begangene Handlungen die nicht das Recht haben die unkoordinierten Grundsätze des Völkerrechtes aus dem Auge zu lassen wenn sie mit der gegenständlichen Politik oder den Bestimmungen eines Staates in Konflikt kommen, welcher keine Absicht hat, sich an die Grundsätze des Völkerrechtes zu halten. Aus diesen Gründen wechsele ich nicht, die im Flick Fall in Zusammenhang mit dem Verteidigungsverbringen gezogenen Schlussfolgerungen abzulehnen und kann auch der Mehrheit bei der Anwendung dieser Schlussfolgerungen auf den in diesem Prozess ermittelten Tatbestand nicht beipflichten.

Im Grunde ist es die Ansicht der Mehrheit, dass unabhängig von dem Ausmaße der Beteiligung der I.G. an dem Sklavenarbeitsprogramm, kein Verbrechen vorliegt, wenn es nicht bewiesen werden kann, dass ein Angeklagter (a) bei der Beteiligung an der Ausnutzung der Sklavenarbeit ungewöhnliche Initiative bewiesen hat; oder (b) dass ein Angeklagter während der Ausführung seiner Amtspflichten in Zusammenhang mit dem Sklavenarbeitsprogramm, eine Initiative gezeigt hat, welche über die, durch die gegenseitigen Bestimmungen gesetzte Grenze, hinausreicht. Auf Grund dieses Arguments wird die vollständige Einschaltung der I.G. in die Produktionsplanung, auf Grund welcher die I.G. praktisch ihre eigenen Produktionsauflagen bestimmte, nicht als "die Ausübung von Initiative" angesehen. Nicht einmal

im Flick Fall ist man so weit gegangen Handlungen, welche ein Angeklagter, bei der Beentragung von Arbeitskräften begangen hat, wobei er wusste, dass Fremdarbeiter angewiesen werden würden, betrachtet die Mehrheit als das Resultat des "Notstandes": sie bringen keine strafrechtliche Verantwortlichkeit mit sich. Nach der Ansicht der Mehrheit darf ein Angeklagter, der Betriebsführer ist, sich aus freien Stücken an der Ausführung von grausamen und unmenschlichen Bestimmungen wie zum Beispiel bei der Ausführung der befohlenen Benachteiligung der Ostarbeiter bei der Ernährung und Bekleidung, oder bei der Einsperrung der armen Arbeiter hinter Stacheldraht, beteiligen:

Dies sei nichts Anderes als die Befolgung der offiziellen Vorschriften und habe daher nach der Ansicht der Mehrheit keinerlei strafrechtliche Verantwortlichkeit zur Folge. So handelt es sich auch dann, wenn bewiesen ist, dass ein Angeklagter fuer den Bau eines Straflagers bei einem I.G. Betrieb verantwortlich war, oder dass er sich an der Einfuehrung von Strafmaassnahmen gegen widersetzliche Zwangsarbeit beteiligt hat, nicht um strafrechtliche Verantwortlichkeit, die Handlung wird gedeckt durch das Verteidigungsargument von "Notstand", da der Angeklagte nur das tat was die grausamen und unmenschlichen Vorschriften von ihm forderten. Es war zum Beispiel zulässig, Sklavenarbeiter bei der Gestapo anzuzeigen, da die Vorschriften es forderten; der Angeklagte wird nicht als verantwortlich betrachtet. Man kann einfach nicht schlusskoeffig behaupten dass dies in den I.G. Betrieben, bei denen Sklavenarbeit zum Einsatz kam, nicht der Fall gewesen sei. Ich kann mich derartigen Schlussfolgerungen nicht anschliessen. Man sollte den von einem totalitären Polizeistaat in der Form von Befehlen an die Bevölkerung ausserübten Zwang nicht als vollständige Ausschaltung der gegenseitigen Grunderkennung des Völker Strafrechts welches fuer den Schutz der grundlegenden Menschenrechte gewisse Forderungen aufgestellt hat, ansehen. Man sollte den Beihilfer und diejenigen die sich durch ihre Zustimmung an dem Verbrechen der Versklavung schuldig gemacht haben, nicht eine so einfache Handhabung geben, sich von ihrer Schuld rein zu waschen. Auf Grund des Tatbestandes und der Beweisaufnahme bin ich ueberzeugt, dass diejenigen Angeklagten, welche Vorstandsmitglieder waren, sich als Beihilfer und durch ihre Zustimmung an der Begabung von Kriegsverbrechen gegen die Menschlichkeit im Sinne des Anklagepunktes 3 der Anklageschrift schuldig gemacht habe.

Selbst wenn wir die Zulässigkeit des Verteidigungsargumentes von "Notstand" einmal unterstellen, ist es sicher nicht zulässig im Hinblick auf die Feststellungen der Mehrheit im Zusammenhang mit der von der IG, in ^{alle Angeklagten} Auschwitz bewiesenen Initiative/freizusprechen. Saemtliche Angeklagten, die Vorstandsmitglieder waren, sollten ihr Teil der Verantwortung fuer die Ausuebung dieser Initiative tragen. Die Mehrheit gibt zu, dass diese Initiative in Auschwitz bestanden habe, da es von Anfang an geplant war beim Bau

der Buna Anlage in Auschwitz Kz Insassen zu beschäftigen. Ich betrachte die Schlussfolgerung, dass nicht alle Vorstandsmitglieder von diesen Unwissen Kenntniss gehabt hatten, als unmöglich. Die Mehrheit erkennt an, dass Duerrfeld, Ambros, Krauch, ter Meer und Buetefisch die Verantwortung fuer das Ergreifen der Initiative bei dem gesetzwidrigen Arbeitsinsatz von Zwangsarbeitern in Auschwitz tragen muessen, und dass sie mindestens bis zu einem gewissen Grade ihr Teil der Verantwortung fuer die Misshandlung der Arbeiter auf sich nehmen muessen, genau wie bei SS und die Kz-Lagerverwaltung. Diese strafrechtliche Verantwortlichkeit fuer die Ereignisse in Auschwitz sollte sich auf alle Vorstandsmitglieder erstrecken. Was die zahlreichen anderen Betriebe anbelangt, in denen die I.G. Sklavenarbeiter beschaeftigte, so existiert hier de facto kein grosser Unterschied im Vergleich mit Auschwitz, was die wohlvollende Haltung der I.G. anbelangt.

Urs den Arbeitseinsatz von fremden Zwangsarbeitern in Auschwitz nach den Inkrafttreten von Sauckel's Zwangsarbeiterprogramm anbelangt, hat die Mehrheit die folgende Feststellung gemacht:

"Die Angeklagten machen geltend dass sie, da die Anwerbung von Arbeitskräften unmittelbar vom Reich geleitet wurde, von den Bedingungen, unter welchen die Anwerbung stattfand, keine Kenntnis gehabt hätten, und dass sie, da die Fremdarbeiter zunächst als Freiwillige angeworben worden waren, nicht gewusst hätten, dass das Verfahren geändert worden war und dass viele der Arbeiter später durch Zwangsarbeit beschafft worden waren. Diese Behauptung kann nicht schlusskräftig aufrecht erhalten werden. Die Arbeitskräfte fuer Auschwitz wurden auf das Ersuchen der I.G. hin vom Reichsarbeitsamt beschafft. Zwangsarbeiter wurden etwa 3 Jahre lang eingesetzt, von 1942 bis zum Kriegsende. Es ist klar, dass die I.G. den Arbeitseinsatz von Kz Insassen oder von solchen Ausländern, welche gegen ihren Willen gezwungen worden waren, in den Deutschen Arbeitsdienst einzutreten, nicht versagten. Andererseits ist es genau so klar, dass die I.G. die Lage wie das Reichsarbeitsamt sie schilderte ohne weiteres akzeptierte, und dass sie wenn freie Arbeiter, Deutsche sowohl wie Ausländer, nicht erhältlich waren sich an den Arbeitseinsatz und die Ausbeutung von Arbeitern, welche sie durch die treuen Dienste des Kz Auschwitz und durch Sauckel's Zwangsarbeiterprogramm erhalten hatten, bemächtigten."

Diese Beurteilung der Verantwortlichkeit fuer den Einsatz von Zwangsarbeitern in Auschwitz trifft genau so gut auf den Einsatz von Zwangsarbeitern in den anderen I.G. Betrieben zu wo die Lage tatsächlich die gleiche war. Willige Zusammenarbeit mit dem Sklavenarbeiterprogramm des Dritten Reiches war eine allgemeine Einstellung, die den ganzen I.G. Konzern durchdrang. Der Vorstand war fuer diese Politik verantwortlich. Aus diesem Grunde erstreckt die strafrechtliche Verantwortung sich nicht nur auf die in Auschwitz unmittelbar Beteiligten. Sie erstreckt sich auf andere Betriebsführer im Verstande der IG und betrifft alle Personen die wesentlich an der Formulierung der Richtlinien des Konzerns mitgearbeitet haben. Meinem Erachtens geht aus der Beweisaufnahme hervor, dass jedes der Vorstandsmitglieder sein Teil der Verantwortung fuer die Genehmigung dieser Politik auf sich nehmen muss, obgleich die verschiedenen Angeklagten nicht gleichmässig und unmittelbar mit der Angelegenheit in Zusammenhang standen. "Die Freiheit und Gelegenheit fuer Initiative" wie sie in Folge von Auschwitz feststeht, existierte meiner Ansicht nach genau so in den anderen Betrieben. Ich kann es nur schwer begreifen wie die Mehrheit zu dem Schluss kommen kann, dass der Bau und Betrieb des Werkes Auschwitz nicht unter Zwang des Reiches zustande gekommen ist angesichts der Tatsache,

dass das Reich den Betrieb fuer Kriegsproduktion brauchte und seine Forderung leitete, und dass die Produktion in anderen Betrieben in denen Sklavenarbeit zum Einsatz kam, "unter Zwang" geschehen sei. Die Loesung liegt meiner Ansicht nach in der Tatsache, dass es in allen I.G. Betrieben Handelsfreiheit gab, und dass in allen dieselbe Atmosphäre der willigen Mitarbeit vorherrschte, wobei es sich in Auschwitz nur um einen Gradunterschied handelte. Die Mehrheit kommt zu dem Schluss, dass der Angeklagte Krauch sich aus freien Stuecken an dem Verbrechen der Versklavung beteiligt habe. Ich stimme mit dieser Schlussfolgerung ueberein, jedoch reicht meiner Ansicht nach die bloesse Tatsache, dass Krauch ein Regierungsbeamter in hoher politischer Stellung war nicht aus, um daraus einen Unterschied zwischen seiner willigen Mitarbeit an dem Verbrechen der Versklavung und den von den anderen Angeklagten je nach ihrer Stellung bei der I.G. gezeigten Grad der willigen Mitarbeit zu konstruieren.

Strafrechtliche Verantwortlichkeit kann dem Vertreter einer juristischen Person nicht einfach deswegen auferlegt werden, weil er dies Amt inne hatte. Grundsätzlich ist ein Vertreter einer juristischen Person nicht strafrechtlich verantwortlich fuer eine in Ausuebung der Vertretungsbefugnis begangenen Handlung eines anderen Organs oder Vertreters einer juristischen Person. Jedoch kann eine von einem Vertreter einer juristischen Person in Ausuebung der Vertretungsbefugnis begangene Handlung strafrechtliche Verantwortlichkeit nach sich ziehen, wenn festgestellt werden kann, dass er durch seine Einzelhandlung, eine Handlungsweise autorisiert, oder befohlen, oder als Beihelfer oder sonstwie sich daran beteiligt hat, welche verbrecherischer Natur ist. Wir haben egmit der verbrecherischen Absicht, welche die Voraussetzung eines Schuldspruchs im Zusammenhang mit dem Vorbringen der Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im Sinne des Anklagepunktes drei dieser Anklageschrift ist, dann zu tun, wenn der Vertreter einer juristischen Person wissentlich die Beteiligung der juristischen Person an einer Handlung verbrecherischer Natur veranlasst. Hierfuer findet sich mehr als zureichendes Beweismaterial. Von dem Zeitpunkt zu dem sich die IG an dem Auschwitz Projekt beteiligte, angefangen, hat diese juristische Person Verbrechen fort-dauern lassen welche Teilnahme an Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im grossen Ausmassen und unter Umstaenden darstellen, die es den Vertretern der juristischen Person unmoeglich machten, in Unwissenheit ueber die Natur der Taetigkeit der IG in Auschwitz zu verbleiben. Von Anfang an war es bei dem Projekt bekannt, dass Sklavenarbeiter und Konzentrationslagerinsassen den Grossteil der Arbeitskraefte fuer das Projekt ausmachen wuerden. Der Arbeitseinsatz dieser Kraefte wurde prinzipiell von der juristischen Person genehmigt. Wollte man daher die juristische Person als ein Deckmaentelchen verwenden, um die wichtigsten Vertreter der juristischen Person, welche diese Politik zulieszen und veranlassten, jeglicher strafrechtlicher Verantwortung zu entziehen, wuerde man die

Grundsätze der strafrechtlichen Verantwortlichkeit so laessig anwenden, dass sich da fuer meiner Ansicht nach unter den grundlegendsten Begriffen des Strafrechtes kein echter Praezedenzfall finden liesse. Es wuerde dies ein Prinzip darstellen, welches man in der Anwendung strafrechtlicher Sanktionen auf Personen, denen solch ernste Verletzungen des Voelkerstrafrechtes zur Last gelegt sind, nicht um sich greifen lassen sollte. Das Gesetz fordert den hohen Grad von persoenlicher Beteiligung an der Begehung von Verbrechen gegen das Voelkerrecht, welchen meiner Ansicht nach die Mehrheit verlangt, keineswegs. Die Tatsache, dass aufgrund der bei der IG angewandten Geschaeftsverteilung, die Lenkung des Auschwitz Projektes in das unmittelbare Arbeitsgebiet gewisser Angeklagter, naemlich ter Meer, Ambros, Buete fisch und Duerrfeld fiel, ist unwichtig.

Meiner Ansicht nach wäre das Auschwitz Projekt nie verwirklicht worden, wäre es nicht von den anderen Angeklagten, die sich an der Zustimmung der juristischen Person zu dem Projekt beteiligten, trotzdem sie wussten, dass Konzentrationslagerinsassen und andere Sklavenarbeiter bei dem Bau und Betrieb der Anlage beschäftigt werden würden, autorisiert und genehmigt worden.

Es handelt sich in diesem Falle nicht um den Tatbestand, dass die Verantwortlichkeit vollständig untergeordneten Organen übertragen worden war, ohne dass diejenigen, welche die Handlungen der juristischen Person veranlassten, gewusst hätten, dass diese Handlungsweise verbrecherischer Natur sei. Es handelt sich hier nicht darum, dass untergeordnete Organe sich aufgrund ihrer eigenen Initiative Verbrechen gegen das Strafrecht zuschulden kommen liessen, ohne dass die Organe der juristischen Person davon Kenntnis gehabt hätten. Gerichtsentscheidungen nach Anglo-amerikanischem Recht, wonach in derartigen Fällen davon abgesehen wird, fuer die in Stellvertretung begangenen Handlungen eine strafrechtliche Verantwortlichkeit zuzuschreiben, sind daher nicht, streng genommen, anwendbar in diesem Falle. Jedoch lassen sich ansehnliche Präzedenzfälle dafür finden, dass ein Angeklagter, der in der Lage war von den gesetzwidrigen Handlungen, welche eine juristische Person durch ihre Vertreter begangen hatte, Kenntnis zu erhalten und diese Kenntnis hätte erhalten müssen, strafrechtlich zur Verantwortung gezogen werden soll. Im Anglo-amerikanischen Recht findet sich eine Analogie hierfür in den Gerichtsentscheidungen ueber den Arbeitseinsatz von Kindern. Zum Beispiel wurde die Verurteilung eines stellvertretenden Betriebsführers wegen Verletzung der Arbeitsgesetze fuer Kinder im Falle der Overland Cotton Mill Co. et al v. People, 32 Colorado 263, 75 Pac, 924 (1904) vom Gericht aufrecht erhalten, obgleich es nicht nachgewiesen worden war, dass er selbst an der Anstellung des Minderjährigen beteiligt gewesen war. Bei der Erörterung der Verantwortlichkeit dieses Beamten machte das Gericht die folgenden Ausführungen:

"Der Vertreter einer juristischen Person hat vermutlich soviel Kenntnis von den Geschäftsangelegenheiten der juristischen Person, soweit sie in seinem Geschäftsbereich liegen, wie er sie sich durch seine Gewissenhaftigkeit erworben hat..... Er (der stellvertretende Betriebsleiter) war in der Mühle beschäftigt und musste in der Ausübung seiner Pflichten Angestellte einstellen und entlassen. Es folgt daher aus der Geweisaufnahme, dass er wegen seines Arbeitsverhältnisses in der Gesellschaft in der Ausübung seiner Pflicht entweder gewusst hat oder, hätte er gebührende Gewissenhaftigkeit an den Tag gelegt, hätte wissen sollen, dass eine minderjährige Person sich in den Diensten der Gesellschaft befand. Aus diesem Grunde muss er als Verletzer des Statuts angesehen werden, da es in seiner Macht lag, aufgrund seines Verhältnisses zu der Gesellschaft die Anstellung eines Minderjährigen zu verhindern. Der Angestellte einer juristischen Person durch welchen die juristische Person sich eine Verletzung der Gesetze des Staates zu schulden kommen lässt, ist selbst desselben Verbrechen schuldig."

Im vorliegenden Fall hat die IG, die juristische Person durch welche die einzelnen Angeklagten sich in einer solchen Weise betätigt haben, dass sie verbrecherische Handlungen ausführten, Verbrechen gegen das Völkerrecht (auf welche das Verteidigungsargument vom Notstand nicht zutrifft) begangen. Die Angeklagten, die Mitglieder des Vorstands der IG und Betriebsführer waren, haben sicher von der Ausnützung der Sklavenarbeiter gewusst und haben sich an ihr aktiv beteiligt.

Sie haben zumindest durch ihre Zustimmung sich an Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im Sinne des Kontrollratsgesetzes No. 10 beteiligt. Diese Betriebsfuhrer hatten nicht nur Kenntnis von diesen Vorgangen, sondern sie beteiligten sich an der Ausfuhrung und an der Planung der IG Richtlinien, welche diesen

Vorgangen zugrunde lagen. Die Beweisaufnahme ergibt keinen stichhaltigen Grund, weshalb die Angeklagten, die in solchen IG-Betrieben, welche Sklavenarbeiter beschaeftigten, Betriebsfuhrer waren, freigesprochen werden sollten. Die anderen Angeklagten, die zwar nicht Betriebsfuhrer, aber Vorstandsmitglieder waren, erhielten auch Kenntnis von und beteiligten sich durch ihre Zustimmung an der Lenkung und der Billigung der Vorgaenge durch welche sich die IG am Sklavenarbeitsprogramm zu so einem so hohen Ausmasse beteiligt hat. Auch sie sollten strafrechtlich zur Verantwortung gezogen werden. Im Grunde handelt es sich hier um Handlungen einer juristischen Person, an welchen sich deren Mitglieder, dadurch, dass sie andere untergeordnete Organe der juristischen Person ermachtigten, das Voelkerrecht zu verletzen, beteiligt haben.

Aufgrund des Beweisergebnisses ist es ueber allen Zweifel erhaben, dass der Vorstand der IG fuer allgemeine Richtlinien betreffs Arbeitsbeschaffung und fuer die sozialen Einrichtungen fuer die Arbeitskraefte verantwortlich war. Diese Verantwortlichkeit wurde in dem Gesetz ueber nationale Arbeit und durch die von dem Vorstand der IG unternommenen Schritte im Sinne des Gesetzes zur Erfuellung ihrer Verpflichtungen in dieser Beziehung anerkannt. Der Angeklagte Schneider wurde aufgrund dieser Verantwortlichkeit des Vorstands zum Hauptbetriebsfuhrer ernannt, und seine Ernennung geschah aufgrund des oben erwahnten Gesetzes. Schneider berichtete Mitgliedern des Vorstands und dessen Ausschuessen haeufig ueber Arbeitsfragen.

Das Beweisergebnis hat bewiesen, dass die IG sich aus freien Stuecken bei der Ausnuetzung von fremden Zwangsarbeitern, Kriegsgefangenen, Konzentrationslagerinsassen, im Sinne der bewussten Politik des Konzerns

beteiligt hat. So hat zum Beispiel Schmitz in einem Bericht den er als Vorsitzender des Vorstands am 11. Juli 1941 an dem Aufsichtsrat machte, die folgende Feststellung gemacht.

"Die Betriebe muessen sich alle Muehe geben, die notwendigen Arbeitskraefte zu beschaffen; durch den Einsatz von Fremdarbeitern und Kriegsgefangenen konnten die Anforderungen grundsätzlich erfuehlt werden."

Dieser Bericht wurde gemacht, nachdem das deutsche Gesetz zur Einfuehrung der Zwangsarbeit in Polen bereits erlassen worden war. Die Beweisaufnahme imt ergeben, dass die IG bei der Beschaffung von polnischen Arbeitern die Initiative ergriffen hat, und dass diese Arbeiter bereits im Jahre 1940 eingesetzt worden sind. Angesichts der historischen Tatsache, dass das Sklavenarbeitsprogramm des nationalsozialistischen Deutschland einen Zwangscharakter hatte, kann man nur die Schlussfolgerung ziehen, dass sich unter den polnischen Arbeitern eine grosse Anzahl von Sklavenarbeitern befand.

Es steht weiterhin fest, dass viele der urspruenglich eingesetzten freiwilligen Fremdarbeiter spaeter ihren Arbeitsplatz nicht hatten verlassen duerfen, selbst wenn sie es gewollt haetten. Das bedeutet wiederum Versklavung. Die Tatsache, dass diese Arbeiter spaeter in einem Zustand der Sklaverei zurueckbehalten wurden, stellt auch Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im Sinne des Kontrollratsgesetz No. 10 dar.

Die IG beteiligte sich aus freien Stuecken an dem Sklavenarbeitsprogramm, auch dann als dessen unmenschliche Charakter durch die Ernennung Sauckels als Bevollmaechteter fuer Arbeitseinsatz immer klarer geworden war. Am 30. Mai 1942 berichtete der Angeklagte Schmitz wiederum an den Aufsichtsrat, dass der Mangel an Arbeitskraefte durch den Einsatz von Auslaendern und Kriegsgefangenen wettgemacht werden muesste. Ein glaubwuerdiger Zeuge, Struss, hat festgestellt, dass fast jedermann in Deutschland wusste, dass russische Arbeiter gezwungen wurden, nach der Schlacht von Kiew nach Deutschland zu kommen. Die Mitglieder des Vorstands der IG mussten daher notgedrungen wissen, dass solche Zwangsarbeiter bei der IG beschaeftigt wurden und sie gaben ihre Zustimmung zu der Ausfuhrung dieses Arbeitsprogrammes und beteiligten sich daran. Die Behauptung, dass Personen, die so einflussreiche und verantwortliche Stellen bekleideten, wie ein Vorstandsmitglied der IG, ueber die Richtlinien des Zwangsarbeitsprogrammes, an dem sich die IG so weitgehend beteiligte, nicht gut unterrichtet gewesen seien, ist ausserst unrealistisch. Es braucht nicht dokumentarisch belegt zu werden, dass jeder Angeklagter von allen Einzelheiten jedes wichtigeren Falles beim Einsatz von Zwangsarbeitern Kenntnis erhalten habe und persoenlich die Initiative ergriffen habe. Es liegen zahlreiche Dokumente vor, aus denen schlusskrueftig hervorgeht, dass die einzelnen Vorstandsmitglieder von der weitgehenden Beteiligung der IG im Sinne der allgemeinen Politik der IG Kenntnis hatten, und sie guthiessen und ihr zustimmten. Zum Beispiel mussten der Vorstand

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und seine untergeordneten Ausschüsse die Gewährung von Krediten für die Unterbringung der Zwangsarbeiter genehmigen. Das bedeutete, dass die einzelnen Vorstandsmitglieder von dem Ausmass der willigen Beteiligung der IG am Sklavenarbeitsprogramm Kenntnis haben mussten, und dass sie sich als Einzelmenschen an der Unterstützung des Programmes beteiligten.

Was die Buna-Anlage in Auschwitz anbelangt, so geht aus der Beweisaufnahme klar hervor, dass die IG bei der Wahl des Baugeländes in Auschwitz die Initiative ergriffen hat, und dass das Wissen darum, dass Konzentrationslagerinsassen für Bauarbeiten an der Anlage zur Verfügung gestellt werden würden, einen wichtigen, wenn nicht entscheidenden Gesichtspunkt dabei darstellten.

Wie die Mehrheit bereits festgestellt hat, war es von Anfang an beabsichtigt, Konzentrationslagerinsassen für diese Arbeit einzusetzen. Jedoch geht meiner Ansicht nach die Verantwortlichkeit des Einzelnen für die Ausführung derartiger Pläne über die Handlungen eines Krauch, Ambros, ter Meer, Baetefisch und Duerrfeld hinaus.

Bei der Besprechung der strafrechtlichen Verantwortlichkeit des Angeklagten ter Meer, hat das Tribunal ganz richtig behauptet, dass es vernunftswidrig sei, anzunehmen, in den Konferenzen zwischen dem Angeklagten Ambros und ter Meer haetten Besprechungen des ausserst wichtigen Problems der Beschaffung von Arbeitern fuer den Bau der Buna-Anlage in Auschwitz nicht stattgefunden und dass ter Meer daher Kenntnis davon gehabt haben muesse, dass die mit dem Bau der Anlage in Auschwitz betrauten Herren bei der Planung und der Beschaffung von Konzentrationslagerinsassen die Initiative ergriffen. Mit dieser Schlussfolgerung stimme ich ueberein, jedoch ist es meiner Ansicht nach gleicher-massen vernunftswidrig anzunehmen, dass sich die Berichte an den Vorstand ueber das Auschwitz-Projekt mit diesen Angelegenheiten nicht befasst haetten. Genau wie ter Meer Ambros' Vorgesetzter war, war der Vorstand ihrer beider Vorgesetzten, und es besteht kein Grund zu der Annahme, dass die Kenntnis, welche Ambros und ter Meer hatten, nicht ausfuehrlich dem Vorstand uebermittelt worden ist und vom Vorstand besprochen wurde. Es liegen im Gegenteil zwingende Beweise vor, dass dies der Fall war, und dass es so gewesen sein muss, laesst sich aus dem Charakter der schweren Verantwortung entnehmen, welche die IG dadurch auf sich nahm, dass sie sich in die Ausnuetzung von Sklavenarbeitern in einem so hohem Masse verwickeln liess, wie es in Auschwitz der Fall war.

Aufgrund ihrer Stellung als Betriebsfuehrer oder Leiter einer oder mehrerer der wichtigen Betriebe der IG und als Mitglieder des technischen Ausschusses beteiligten sich die Angeklagten Gajewski, Hoerlein, Buergin, Jachne, Kuehne, Lautenschlaeger, Schneider und Wurster an der Ausnuetzung von Sklavenarbeit in den ihnen unterstellten Betrieben und beteiligten sich aktiv an der Foerderung der Politik der Ausnuetzung von Sklavenarbeitern innerhalb der IG-Betriebe. Sie sollten daher sachlich im Zusammenhang mit Anklagepunkt 3 der Anklageschrift als schuldig befunden werden. Obgleich die Arbeitsgebiete der Angeklagten Schmitz, von Schnitzler, von Knierim, Haefliger, Ilgner, Mann und Oster nicht in unmittelbarem Zusammenhang mit der Leitung einer bestimmten Anlage oder eines bestimmten Bauprojektes standen, in welchem Sklavenarbeit eingesetzt wurde, hatten sie dennoch Kenntnis von dieser Politik in der ganzen IG-Organisation. Als Vorstandsmitglieder pflichteten sie dieser Politik stillschweigend bei. Meiner Ansicht nach

brauchen sie gar nicht als Einzelmenschen gewöhnlich bei der Beschaffung oder dem Einsatz dieser Arbeiter die Initiative ergriffen zu haben. Es genügt, dass sie wissentlich der Politik der Ausnützung von Sklavenarbeit beige pflichtet haben; dies hat jedoch meines Erachtens das Beweisergebnis klar gezeigt.

Man konnte nicht daran denken ein Bauprojekt anzugreifen, ohne dass zureichende Berichte über die wichtigeren Faktoren welche die Wahl eines Baugeländes für einen Industriebetrieb beeinflussen, einschliesslich der Arbeiterquellen und der Verfügbarkeit von Arbeitern, dem Vorstand vorlagen. Ich bin überzeugt davon, dass Krauch die Wahrheit sagte, als er in seiner vor dem Prozess abgegebenen eidesstattlichen Erklärung feststellte, die IG habe die Wahl gehabt, ob sie die Buna-Anlage in Auschwitz errichten wollte oder nicht;

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Das Baugelaende sei von Ambros gewaehlt worden war und dem Vorstand der IG sei ein Bericht ueber die verschiedenen in Betracht gezogenen Gesichtspunkte, einschliesslich der Beschaffung von Arbeitskraefte unterbreitet worden; und dass die Mitglieder des Vorstandes der IG " von dem Einsatz von Konzentrationslagerinsassen bei der Buna-Anlage der IG in Auschwitz Kenntnis erhalten hatten und dass sie nicht protestiert hatten". In anderen Worten: es kann keinem Zweifel unterliegen, dass der Vorstand der IG den Arbeitseinsatz von Konzentrationslagerinsassen beim Bau der Auschwitz Buna-Anlage genehmigte, und dass er nicht widersprach wie es seine Pflicht ^{gewesen} waere.

Dies stellt meiner Ansicht nach eine positiv zustimmende Handlung seitens der Vorstandmitglieder dar und fuehrt unauswaerlich zu der Annahme einer strafrechtlichen Mittaeterschaft, welche die nach dem Kontrollratsgesetz No. 10 erforderlichen Bedingungen fuer die Zustimmung zu einem Verbrechen erfuehlt. Ich kann der Mehrheit nicht in der Feststellung beistimmen, dass durch die Beweisfuehrung ein ungewoehnlich hoher Grad von Initiative seitens jedes Angeklagten bei der Beschaffung derartiger Arbeitskraefte oder bei der Teilnahme an Verhandlungen zur Beschaffung derselben erwiesen worden muss. Diese Dingen spielen sich auf einer viel tieferen Ebene ab als der Ebene der politischen Fuehrung auf welcher viele der Angeklagten sich bewegten. Aber es genuegt vollstaendig, dass sie von dieser Politik wussten und sie stillschweigend hinnahmen. Gewisse Angeklagte waren mit der Ausfuehrung des Projektes mehr unmittelbar verbunden als andere, jedoch verringert dies keineswegs den Grad der Mittaeterschaft der anderen Vertreter der juristischen Person, welche Mitglieder des Vorstandes der IG waren und welche, wie aus der Beweisfuehrung klar hervorgeht, gewusst haben, was vor sich ging und durch ihre Tatenlosigkeit und ihr Stillschweigen und durch die Tatsache, dass sie nicht widersprachen in diesen Angelegenheiten ihre Zustimmung gegeben haben. Zusaezliches Beweismaterial findet sich in den vor dem Prozess abgegebenen eidesstattlichen Erklarungen der Angeklagten Bueteffisch und Schneider. Ferner haben Mitglieder des TEA, einschliesslich der Angeklagten ter Meer, Schneider, Bueteffisch, Ambros Lautenschlaeger, Jaehne, Hoerlein, Kuehne, Buergin, Gajowski und von Knieriem (als Gast), an Sitzungen teilgenommen, -

bei denen Berichte ueber das Auschwitz Projekt unterbreitet und ungeheuerere Kredite dafuer bewilligt wurden. Die Behauptung dass diese wichtigen Vertreter einer juristischen Person nicht im allgemeinen in grossen Zuegen von der aeusserst wichtigen Angelegenheit der Arbeiterbeschaffung Kenntnis erhalten haetten, stellt grosse Ansprueche an unsere Leichtglaebigkeit. Aufgrund der Beweisaufnahme bin ich zu der Ueberzeugung gekommen, dass sie als Vorbedingung fuer die ordentliche Ausfuehrung ihrer Pflichten von solch einschneidenden Angelegenheiten wie dem Befehl Goerings vom 18. Februar 1941, welcher auf die Bitte des Angeklagten Krauch hin erlassen worden war und an den Reichsfuehrer SS Himmler gerichtet war, des Inhalts, dass Konzentrationslagerinsassen fuer den Bau der Buna-Anlage in Auschwitz zur Verfuegung gestellt werden sollten, Kenntnis erhalten haben muessen.

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Das Verteidigungsargument, die Angeklagten seien "gezwungen" worden, Konzentrationslagerinsassen zu beschaeftigen oder sie haetten nicht gewusst, dass die Plaene der IG in Auschwitz zur Ausfuehrung kamen, ist meiner Ansicht nach in keiner Beziehung stichhaltig.

Die wirkliche Haltung der IG und der fadenscheinige Charakter des Verteidigungsargumentes vom Zwang und vom Notstand wie es von dem Angeklagten immer wieder behauptet wird, geht am besten hervor aus dem Brief des Angeklagten Krauch an Himmler vom Juli 1943, in welchem Krauch schrieb:

"besonders erfreut haette ihn die Tatsache, dass Sie waehrend dieser Besprechung angedeutet haben, Sie koenn-ten vielleicht den Ausbau einer weiteren Werkstoffanlage auf uehnliche Weise wie das in Auschwitz der Fall war dadurch unterstuetzen, dass Sie noetigenfalls Insassen Ihrer Lager zur Verfuegung stellen wuerden. Ich habe in diesem Sinne auch an Herrn Minister Speer geschrieben, und waere Ihnen dankbar, wenn Sie uns in dieser Angelegen-heit weiter helfen und unterstuetzen wuerden."

Hieraus schliesse ich, dass alle Vorstandmitglieder in der Beschaffung dieser Arbeitskraefte und ihrem Einsatz in Auschwitz eine "Hilfeleistung" fuer die IG sahen, sodass alle Angeklagten ihr Teil der Verantwortung fuer den Einsatz dieser Arbeiter auf sich nehmen muessen. Aus der Beweisauf-nahme geht hervor, dass saemtliche Personen in Schlusael-stellungen bei der IG regelmassig von allen Entwicklungen Kenntnis erhielten. Es steht fest, dass auf diese Weise zu mindest die hochergestellten Herren der IG Kenntnis erhielten von dem Ausmass der Beteiligung der IG an der Ausbeutung von Sklavenarbeit in Auschwitz. Die Erhoehung der Insassen des Auschwitzer Lagers von 700 im Jahre 1941 auf mehr als 7000 Ende 1943, kann den Angeklagten, welche Vorstandsmit-glieder der IG waren, nicht unbekannt gewesen sein.

Nachdem die IG einmal sich in grossem Ausmass an der Ausbeutung von Konzentrationslagerinsassen in Auschwitz be-teiligt hatte, und durch einige ihrer Vertreter in den Verhandlungen mit der SS bei der Beschaffung von immer groeseren Mengen von Konzentrationslagerinsassen die Initiative ergriffen hatte, musste sie notgedrungen mit hin-eingezogen werden in die Unmenschlichkeit, welche der Einsatz derartiger Arbeit mit sich brachte. Die Mehrheit ist im Grunde der Ansicht, in dem sie das Verteidigungsargument vom Not-stand anerkennt, dass die Angeklagten, wenn sie bei der Aus-fuehrung des Sklavenarbeiterprogrammes nur das taten, was die grausamen und unmenschlichen Bestimmungen von ihnen

verlangten, da sie sich an der Ausbeutung der Arbeitskraefte unter diesen Sklavenartigen Umstaenden beteiligten, nicht dafuer verantwortlich sind. Dem kann ich nicht beipflichten. Die Beweisaufnahme hat ergeben, dass die Zustaende in denen die Konzentrationslagerinsassen in Auschwitz auf dem Baugelaende der IG zu arbeiten gezwungen wurden zu einem ausserst hohen Grade unmenschlich waren. Und wie die Anklage festgestellt hat, ist es durchaus nicht zu viel behauptet, wenn man sagt, dass die Arbeitsbedingungen indirekt zum Tode von tausenden von Menschen gefuehrt haben. Es ist moeglich, dass diese Angeklagten selbst den Tod der ungluecklichen Opfer nicht gewollt haben, die hinterher von der SS in den Gaskammern ermordet wurden, jedoch war die Rolle, welche sie bei der Ausbeutung der Konzentrationslagerinsassen unter solchen Bedingungen gespielt haben, ein Glied in der ganzen graesslichen Kette des Verbrechens, und ich fuehle mich ausserstande, die schwere Verantwortlichkeit welche die IG und ihre verantwortlichen Organe, die Mitglieder des Vorstands, in dieser Beziehung auf sich geladen haben, auch nur im Geringsten zu verringern.

Die Tatsache, dass die IG dem ganzen Unternehmen wohlwollend gegenüberstand und sich sogar damit identifizierte, kam ferner in der Errichtung eines eigenen IG Konzentrationslagers, in Monowitz im Jahre 1942 zum Ausdruck. Kredite fuer diesen Zweck wurden von dem TEA und dem Vorstand nach einer eingehenden Besprechung der Notwendigkeit eines solchen Lagers gewährt, woraus wiederum hervorgeht, dass das Wissen um das Ausmass der Ausbeutung von Konzentrationslagerinsassen in weiten Kreisen der IG verbreitet war.

Die fuerchterliche Kaelte, die Unzulaenglichkeit der Ernahrung, die schwere Arbeit, die grausame Behandlung der Arbeiter durch das Aufsichtspersonal, all dies tragt bei zu dem graesslichen Bild, das - davon bin ich ueberzeugt - von der Anklagebehoerde durchaus nicht zu schwarz gezeichnet wurde und durch das Beweisergebnis bestaetigt worden ist. Die Arbeits- und Lebensbedingungen waren tatsaechlich unertraeglich und da diese Insassen fuer die IG arbeiteten, war es die Pflicht der IG, die Lage zu verbessern. Die wenigen Anstrengungen die, wie aus der Beweisaufnahme hervorgeht, gemacht worden sind, um die Zustaende zu verbessern, waren unzureichend, um die sehr realen Verpflichtungen, welche die IG in dieser Beziehung hatte, zu erfuellen. Wir muessen uns vor Augen halten, dass diese Maenner durch die IG als Sklaven missbraucht worden sind, wobei die IG die Initiative ergriffen hatte und zwar nur deswegen, weil die IG sie als ein Mittel zum Bau einer Anlage benutzen wollte, deren unmittelbarer Zweck die Kriegsproduktion war, die aber spaeter in die Beherrschungspolitik der IG in den Wirtschaftsraum im Osten eingebaut werden sollte. Daher muss hinsichtlich des hohen Grades von Initiative welchen die IG bewiesen hat, die Verpflichtung den Arbeitern gegenueber als die groessere Verpflichtung betrachtet werden. Die von der IG unternommenen Massnahmen sind vollstaendig unzulsaenglich.

Unter den glaubwuerdigen Zeugen, die vor dem Tribunal ihre Aussagen gemacht haben, befand sich eine Anzahl von englischen Kriegsgefangenen, die das mitleiderregende Schicksal der auf der IG Baustelle in Auschwitz beschaeftigten Konzentrationslagerinsassen beschrieben haben. Diese

glaubwuerdigen Aussagen von Augenzeugen haben bewiesen, dass die Insassen abgemagert und koerperlich unfuehig waren, die Arbeit, zu der sie gezwungen wurden, auszufuehren; dass sie so herunter gekommen aussahen, dass man kaum glauben konnte, dass sie Menschen waren; dass sie alle an Unterernaehrung litten; dass die sogenannte "Buna-Suppe" duenn und waessrig und unzureichend war; dass man die Konzentrationslagerinsassen verhungern liess. Aufgrund dieser Aussagen bin ich davon ueberzeugt, dass die IG ihren schwerwiegenden Verpflichtungen, dafuer zu sorgen, dass ihre Zwangsarbeiter zureichend ernaeht wurden, nicht nachgekommen ist,

und dass die Angeklagten die Verantwortung fuer diese Zustände nicht auf die SS oder auf die Auftragnehmer der IG schieben koennen.

Es geht ferner aus der Beweisaufnahme ohne allen Zweifel hervor, dass die Arbeitsbedingungen auf der IG Baustelle in Auschwitz unmenschlich waren. Die armen Konzentrationslagerinsassen wurden gezwungen, Arbeiten zu verrichten, die ueber ihre koerperlichen Kraefte hinausgingen. Bei der Ausfuehrung dieser Arbeit waren sie strengster Disziplin unterworfen und es bestand eine direkte Verbindung zwischen den Erfordernissen der IG und den Misshandlungen, denen die Konzentrationslagerinsassen seitens der SS ausgesetzt waren. Der Sohn des Angeklagten Jaehne hat wie folgt ausgesagt:

"Von allen Arbeitern, welche die IG in Auschwitz angestellt hatte, wurden die Konzentrationslagerinsassen am schlechtesten behandelt. Sie wurden von den Kapos geschlagen, die ihrerseits darauf zu sorgen hatten, dass die ihnen und ihren Gruppen vom IG-Meister aufgetragene Arbeit ausgefuehrt wurde, weil sie sonst dadurch bestraft wurden, dass sie am Abend im Lager Monowitz durchgepruegelt wurden. Auf der IG Baustelle gab es ein allgemeines Antreibungssystem, sodass man nicht sagen kann, dass nur die Kapos schuld waren. Die Kapos trieben die Konzentrationslagerinsassen in ihren Abteilungen sehr scharf an, sozusagen aus Selbstverteidigung, und schreckten nicht davor zurueck, die schuersten Mittel anzuwenden, um die Arbeitsleistung der Konzentrationslagerinsassen zu steigern, wenn nur die erforderliche Arbeit geleistet wurde."

Ich bin davon ueberzeugt, dass dies eine zutreffende Beschreibung der Zustände in Auschwitz ist und ich bin ferner der Ueberzeugung, aufgrund der grossen Menge von glaubwuerdigen Beweisstuecken vor diesem Tribunal, dass die Behauptung der Anklage, wonach die Bile der IG beim Bau des Betriebes in Auschwitz mittelbar zu der Auslöse tausender Konzentrationslagerinsassen zur Ausrottung seitens der SS gefuehrt habe, wenn sie nicht mehr arbeiten konnten, auf Wahrheit beruht. Das Beweisergebnis zeigt, dass Furcht vor der Ausrottung angewandt wurde,

um die Konzentrationslagerinsassen zu hoeheren Leistungen anzuspornen und dass sie unter diesem Druck Arbeiten verrichteten, die ueber ihre koerperlichen Kraefte hinausgingen. Das Beweisergebnis zeigt ferner, dass verletzte oder kranke Konzentrationslagerinsassen sich haeufig nicht

ärztlicher Behandlung unterzogen, weil sie fürchteten, man könnte sie in die Gaskammern in Birkenau schicken. Die Angeklagten können sich meiner Ansicht nach, so weit sie Vorstandsmitglieder waren, der Verantwortlichkeit für diese zahllosen Verbrechen gegen die Menschlichkeit nicht entziehen. Der Zustand der bei der IG beschäftigten Konzentrationslagerinsassen kann den höher gestellten Vertretern des Konzerns nicht verborgen geblieben sein. Wie die Zustände wirklich waren, geht aus den Aussagen des Zeugen Frost, eines englischen Kriegsgefangenen, hervor:

"Ausser den IG-Meistern und anderen Angestellten in Auschwitz besuchte von Zeit zu Zeit einer der höher gestellten Herren vom Hauptquartier der Firma den Betrieb. Meiner Ansicht nach ist es ganz unmöglich, dass irgendjemand, der in dem Betrieb beschäftigt war, oder der den Betrieb auf einer Geschäfts- oder Inspektionsreise besuchte, sich dessen nicht bewusst werden konnte, dass die Konzentrationslagerinsassen einfach zu Tode gearbeitet wurden. Ihre Gesichter waren vollständig ohne Farbe. Sie waren praktisch lebende Leichname, bedeckt mit Haut und Knochen, und geistig vollständig gebrochen. Jeder der dort war, weiss, dass die Konzentrationslagerinsassen dort blieben, solange sie arbeiten konnten, und dass sie, wenn sie nicht mehr körperlich fähig waren, zu arbeiten, umgelegt wurden."

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Zusammenfassend hat das Beweisergebnis gezeigt, dass die IG die Baustelle in Auschwitz gewählt hat, weil sie wusste, dass dort ein Konzentrationslager war; dass die IG von Anfang an beabsichtigte, Konzentrationslagerinsassen beim Bau der Anlage zu verwenden; dass diese Angelegenheiten dem Vorstand und dem TEA berichtet und von diesen besprochen werden mussten, dass die IG bei der Beschaffung von Konzentrationslagerinsassen fuer die Arbeit in Auschwitz die Initiative ergriffen hat; dass das Projekt den Mitgliedern des TEA staendig vorlag, da sie die notwendigen Kredite gewachsen mussten; dass der TEA ueber die Frage der Arbeiterbeschaffung auf dem laufenden gehalten werden musste, wenn er seine Pflichten ordnungsgemaess, erfuehlen sollte; dass der Zustand der Konzentrationslagerinsassen dem TEA und den Vorstandsmitgliedern durch verschiedene Besprechungen und Berichte zur Kenntnis gebracht wurde; dass eine Anzahl der Angeklagten durch persoenliche Besuche in Auschwitz sich mit ihren eigenen Augen von den dort herrschenden Zuständen ueberzeugen konnten; dass die Angeklagten Krauch, von Dierkem, Schneider, Joehne, Ambros, Ba. tefisch und ter Meer die IG-Baustelle in Auschwitz zur Zeit der oben beschriebenen Zustände erwiesenermassen besucht haben; dass die Zustände in Auschwitz so entsetzlich waren, dass man unmoeglich annehmen kann, die Angeklagten, das heisst, die wichtigsten Leiter des Konzerns, die fuer die Beteiligung der IG an dem Projekt verantwortlich waren, haetten davon nicht Kenntnis erhalten.

Ein Brief eines IG-Angestellten des IG-Betriebes in Auschwitz an einen IG-Angestellten in Frankfurt vom 30 Juli 1942 enthaelt eine Beschreibung des Unternehmens, zu welchem diese Angeklagten ihre Zustimmung gegeben haben muessen:

"Sie koennen sich vorstellen, dass die Bevaelkerung sich gegen die Reichsdeutschen und besonders gegen uns IG Leute nicht in einer freundschaftlichen oder auch nur korrekten Weise benimmt. Das einzige was diese Lumpen davon abhaelt zu rebellieren ist die Tatsache, dass die bewaffnete Macht (das Konzentrationslager) dahinter steht. Die boesen Blicke, die man uns gelegentlich zuwirft, sind nicht strafbar. Abgesehen von diesen Dingen fuehlen wir uns aber ganz wohl hier....."

"Bei einer Belegschaft von dieser Grösse koennen Sie sich vorstellen, dass die Zahl der Wohnbarracken staendig waechst, und dass sich eine ganze Barrackenstadt entwickelt hat. Ausserdem ist da der Umstand, dass etwa tausend Fremdarbeiter dafuer sorgen, dass unsere Ernaehrung nicht schlechter wird. So findet man Italiener, Franzosen, Kroaten, Belgier, Polen und, als die "engsten Mitarbeiter" die sogenannten Strafgefangenen aller Schattierungen. Sie koennen sich vorstellen, dass die juedische Rasse hier eine besondere Rolle spielt. Die Ernaehrung und die Behandlung dieser Sorte Menschen entspricht unseren Absichten. Natuerlich kommt es kaum jemals vor, dass einer von ihnen an Gewicht zunimmt. Es steht auch fest, dass beim geringsten Wunsch nach einem "Luftwechsel" die Kugeln pfeifen, und dass viele schon wegen "Sonnenstich" verschwunden sind."

Die Anklage behauptet, dass durch die Errichtung des IG Konzentrationslagers "Monowitz die Lebensbedingungen der Konzentrationslagerinsassen die vorher in den Konzentrationslagern in Auschwitz geherrscht hätten, verbessert werden sollten. Diese Behauptung wird durch Zeit-Dokumente widerlegt, aus denen hervorgeht, dass alles andere als menschliche Motive hier mitspielten, nämlich der Wunsch, den durch die Typhusepidemie im Jahre 1942 unterbrochenen Zustrom von Arbeitskräften, wieder in Fluss zu bringen. Der Angeklagte Treusch hat zugegeben, dass Jurek und Guetlich dem Vorstand der IG vorgeschlagen hatten, dass das IG Konzentrationslager Monowitz auf dem IG Gelände in Auschwitz aus Gründen der Zweckmäßigkeit errichtet werden sollte". Ich bin überzeugt, aufgrund der Beweisaufnahme, dass der Zweck bei der Errichtung des Lagers die Beschaffung von Konzentrationslagerinsassen war deren Arbeitsleistung durch den Ausfall des Stammlagers zu und von dem Hauptkonzentrationslager gesteuert werden sollte. Die Provision für Nahrungsmittel, auf die sich die Verteidigung auch bezieht, wurden eingeführt, um die Arbeitsleistung der Arbeiter zu steigern, und diese Leistungssteigerung war der Hauptzweck des Provisionersystems. Noch dazu hat es den mitleidregenden Zustand der Vielzahl der Arbeiter nicht einmal verbessert. In einem strafrechtlichen Verfahren darf es nie als Verteidigungsgrund gelten, wenn man sich auf Einzelfälle bezieht in denen es sich nicht um eine verbrecherische Handlung handelt. Aufgrund der Beweisaufnahme bin ich nicht davon überzeugt, dass die IG irgendwelche ernstlichen Anstrengungen gemacht hat, die Ernährungsfrage in Auschwitz zu verbessern, und ich bin ausserstande, irgendwelche Dokumente zu entdecken, welche in dieser Beziehung als billige Weste in Betracht kommen.

In diesem Verfahren ist die absurde Behauptung aufgestellt worden, dass der Zaun, welcher die IG-Anlage umgab, nicht dem Zweck diene, sich der Sklaven zu vergewissern, sondern dazu da war, um den Konzentrationslagerinsassen mehr Freiheit zu geben, und um die SS aus dem Lager fernzuhalten. Auch hier beweisen die Zeit-Dokumente, dass der Zaun aufgrund von Vorschlägen der SS gebaut wurde, um den Einsatz von grösseren Mengen von Insassen unter geringerer Bewachung zu ermöglichen.

Die grosse Mehrheit der Dokumente beweist, dass die Lebensbedingungen im IG Lager Monowitz so geartet waren, dass die Arbeiter noch menschlicher darin waren. Eine Unmasse glaubwürdigen Beweismaterial beweist meiner Ansicht nach, dass das kalte Wetter auf die Unterernährten und schlechtgekleideten Insassen eine furchtbare Wirkung hatte. Man kann wohl kaum behaupten, dass der durch die Ausgabe von Wintermanteln im Jahre 1944 kurz vor Auschwitz gescheiterte Versuch, von der IG gewachte Versuch diesen Zustand abzuheben, eine Entschuldigung ist, fuer die Misshandlungen und die inhumanen Zustände wie sie aus den Aussagen zahlreicher Augenzeugen dieser Zustände hervorgehen. Die Verteidigung hat lange Dokumente, widersprüchliche Erklärungen und einige Aussagen unterbreitet, um das ueberwältigende Beweismaterial der Anklage zu widerlegen. Ich bin nicht der Ansicht, dass dies von der Verteidigung unterbreitete Beweismaterial glaubwürdig genug ist, um bezüglich der Misshandlung einen vernünftigen Zweifel zuzulassen.

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Die von der Verteidigung eingereichten Zeit-Dokumente sind keineswegs ausreichend, um die Beweisführung der Anklage zu entkräften. Einige der Zeugen, die eidestattlichen Erklärungen abgegeben hatten, und die bei der IG Baustelle in Auschwitz an führender Stelle standen, machten im Kreuzverhör durch die Anklage Zugeständnisse, welche die Wichtigkeit und die Glaubwürdigkeit ihrer in den eidestattlichen Erklärungen gemachten Aussagen weitgehend beeinträchtigten. Die von der Anklage zum Kreuzverhör vorgeladenen Zeugen, welche eidestattliche Erklärungen abgegeben haben, fielen in 3 Gruppen: Solche, welche im Kreuzverhör Aussagen machten, die die belastenden Feststellungen der Anklage bekräftigten; solche, deren Glaubwürdigkeit im Kreuzverhör vollständig zerstört wurde; und solche, deren eidestattliche Erklärungen von der Verteidigung, in manchen Fällen nachdem sie bereits in Nürnberg erschienen waren, zurückgezogen wurden. Hieraus schliesse ich, dass auf die von der Verteidigung eingeführten eidestattlichen Erklärungen sehr wenig Gewicht gelegt werden kann. Wenn wir davon absehen, dass Beweismaterial nach Gewicht und Anzahl der eidestattlichen Erklärungen einzuschätzen, hat die Anklage tatsächlich bewiesen, dass die IG sich an der Misshandlung von Konzentrationslagerinsassen in Auschwitz zu einem sehr schwerwiegenden Grade beteiligt hat. Zumindest war es die Pflicht des Angeklagten Schneider und derjenigen Vorstandsmitglieder die Konzentrationslager Auschwitz besucht haben, diese Zustände erfolgreich abzustellen. Das haben diese Angeklagten jedoch nicht getan und sie sollten dafür die strafrechtliche Verantwortung für diese VERSCHÄRFTUNG des Verbrechens der Versklavung zusätzlich zu ihrer Verantwortlichkeit für ihre Beteiligung am EINSATZ von Sklavenarbeit tragen.

Es wäre in diesem Zusammenhang zwecklos, das Beweisergebnis im einzelnen bezüglich jedes einzelnen Angeklagten zu untersuchen. Der Grad der Schuld ist bei jedem Angeklagten verschieden und seine Stellung innerhalb der IG muss in Betracht gezogen werden. Jedoch ist meiner Ansicht nach der Standpunkt, dass Schmitz, der Vorsitzende des Vorstandes der IG, keine Verantwortung fuer die Beteiligung der IG am Sklavenarbeitsprogramm einschliesslich der Vorgaenge in auschuetzen solle, oder dass Schneider, der Hauptbetriebsleiter der IG, auf dem Gebiet des Arbeitseinsatzes nicht verantwortlich sein solle, unhaltbar. Man kann vom Völkerrecht nicht annehmen, dass es in einem Vacuum juristischer Verantwortungslosigkeit funktioniert, in welchem eine juristische Person mit einer Machtbefugnis und einem Einfluss gleich dem der IG sich zu einem so hohen Grade an einem Verbrechen beteiligt ohne dass die fuer diese Beteiligung Verantwortlichen zur Rechenschaft gezogen werden. Was auf Schmitz, den Vorsitzenden des Vorstandes zutrifft, bezieht sich entsprechend auch auf die anderen Direktoren der IG.

Auschwitz ist in dieser Zusammenfassung gewählt worden, weil es den schwersten Fall der Beteiligung der IG am Sklavenarbeitsprogramm darstellt. Bei einer solchen Behandlung des Beweisergebnisses muss festgestellt werden, dass die verschiedenen Angeklagten, die Betriebsführer waren, in den meisten Fällen sich gleichzeitig an der Ausbeutung der Sklavenarbeit in denen ihnen unterstellten Betrieben beteiligt haben, und dass in den Fällen, wo dies nicht zutrifft, die Angeklagten von den IG-Richtlinien für diese Ausbeutung Kenntnis hatten, sie stillschweigend hinnahmen, sie billigten und daher dafür verantwortlich waren. Eine Überprüfung des Beweisergebnisses im einzelnen bezüglich jedes Angeklagten oder jedes Betriebsführers in dieser Urteilsbegründung würde diesen Schriftsatz zu ausgedehnt machen. Betreffs der Behandlung einiger der in den IG Betrieben angestellten Westarbeiter sind mildernde Umstände erwiesen. Es genügt daher, wenn ich diese Darlegung meiner - abweichenden Ansicht damit abschliesse, dass ich sage, dass jeder Angeklagte, der ein Vorstandsmitglied war, meiner Ansicht nach im Zusammenhang mit Anklagepunkt 3 der Anklageschrift als schuldig befunden werden sollte, und dass ich der Mehrheit bei der Freisprechung der Angeklagten Schmitz, von Schnitzler, Gajewski, Hoerlein, von Knieriem, Schneider, Buergin, Haefliger, Ilgner, Jaehne, Kuehne, Lautenschlaeger, Mann, Oster und Wurster beipflichte. Diese Angeklagten sind meiner Ansicht nach schuldig, obgleich die mildernden Umstände, welche bei der Bestimmung des Strafmasses in einzelnen Fällen geltend gemacht werden moegen, beruecksichtigt werden muessen.



Unterschrift: Paul M. Hebert
Paul M. Hebert,
Richter,
Militär Tribunal No. VI

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CERTIFICATE OF TRANSLATION

11 January 1949

I, Leonard LAWRENCE, No. 20138, hereby certify that I am a duly appointed translator for the English and German languages and that the above is a true and correct translation of the original Document.

Leonard LAWRENCE,
No. 20138.

OFFICE OF MILITARY GOVERNMENT (US)
BÜRO DER U.S. MILITÄRREGIERUNG

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nürnberg, Germany
Nürnberg, Deutschland

Case No. 1
Fall Nr. 1

COMMITMENT
EINKLIEFERUNGSBEFehl

To: The Officer in charge of Landsberg Prison
An den Leiter der Landsberger Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(s) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one Otto Jahn
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Art. 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
Art. 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig ist und vom MILITÄRGERICHTSHOF

of Eight (8) years imprisonment

zu acht Jahren Gefängnisstrafe verurteilt worden.

The said sentence to commence on the 1st day of July, 1946

Der Strafantritt hat am 1. Juli 1946 zu erfolgen.

Now, therefore, you are hereby authorized to receive and receive the said prisoner into your custody and detain him (her) in accordance with the sentence so imposed or until further order of this Tribunal or order of competent military authority, and for so doing this shall be sufficient warrant.

Auf Grund des genannten Urteils sind Sie ermächtigt, den (die) genannten

prisoner into your custody and detain him (her) in accordance with the

to (n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen

sentence so imposed or until further order of this Tribunal or order

bis er (sie) die über ihn (sie) verhängte Strafe abgebußt hat oder

of competent military authority, and for so doing this shall be sufficient

bis Sie eine weitere Anordnung von diesem Gerichtshof oder von einer

competent warrant.

zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt

Sie zur Vornahme der Handlung

Signed this 30 day of July 1946

Geschieht am 30. Juli 1946

Ernest C. Hake
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nürnberg, Germany
Nürnberg, Deutschland



OFFICE OF MILITARY GOVERNMENT (US)
DIENSTSTELLE DER U.S. MILITÄRREGIERUNG

Legal Form No. 57

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nurnberg, Germany
Nürnberg, Deutschland

Case No. 1
Fall Nr.

COMMITMENT
EINLIEFERUNGSBEFEHL

To: The Officer in charge of Prison
An den Leiter der Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(s) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Count II - Plunder and Spoilation ...
.....

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF

of
zu verurteilt worden.

The said sentence to commence on (date).

Der Strafantritt hat am zu erfolgen.

Now, therefore, you are hereby authorized to receive the above named
Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genann
prisoner into your custody and detain him(her) in accordance with th
te(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen,
sentence so imposed or until further order of this Tribunal or order
bis er (sie) die über ihn (sie) verhängte Strafe abgebußt hat oder
of competent military authority, and for so doing this shall be suf
bis Sie eine weitere Anordnung von diesem Gerichtshof oder von eine
ficient warrant.

zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt
Sie zur Vornahme der Handlung.

Signed this 30... day of July... 1947

Gezeichnet am 30. Juli... 1947

.....
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nürnberg, Deutschland



OFFICE OF MILITARY GOVERNMENT (US)
DIENSTSTELLE DER U.S. MILITÄRREGIERUNG

Legal Form No. 5

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nurnberg, Germany
Nürnberg, Deutschland

Case No. 1
Fall Nr.

COMMITMENT
EINLIEFERUNGSBEFehl

To: The Officer in charge of Landsberg Prison
An den Leiter der Landsberg Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(n) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one Heinrich Rustafisch
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Count III - Slavery and Mass Murder

Art. III - Sklaverei und Massenmord

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF

of Six (6) years imprisonment

zu sechs Jahren Gefängnisstrafe verurteilt worden.

The said sentence to commence on 11 May 1948 (date).

Der Strafantritt hat am 11. Mai 1948 (Datum) zu erfolgen.

Now, therefore, you are hereby authorized to receive the above named
Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genant
prisoner into your custody and detain him(her) in accordance with th
to(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen,
sentence so imposed or until further order of this Tribunal or order
bis er (sic) die über ihn (sic) verhängte Strafe abgebusst hat oder
of competent military authority, and for so doing this shall be suf-
bis Sie eine weitere Anordnung von diesem Gerichtshof oder von einer
ficient warrant.

zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt
Sie zur Vornahme der Handlung

Signed this 30 day of July 194.....

Geschiedet am 30. Juli 194.....

..... W. J. Shaker
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nürnberg, Deutschland



OFFICE OF MILITARY GOVERNMENT (US)
DIENSTSTELLE DER U.S. MILITÄRREGIERUNG

Legal Form No. 5

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nurnberg, Germany
Nurnberg, Deutschland

Case No. 6
Fall Nr.

COMMITMENT
EINLIEFERUNGSBEFehl

To: The Officer in charge of Landsberg Prison
An den Leiter der Landsberger Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred;
welche(s) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one Walter Doerrfeld
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Count III - Slavery and Mass Murder Artikel III - Sklaverei und Massmord.

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF
of Eight (8 years) imprisonment

Acht Jahren Gefängnis verurteilt worden.

Allowed credit on said sentence for period of time already in custody, i.e.,
The said sentence to commence on 17. Juli 1948 (date).

Das Strafmaß hat am 17. Juli 1948 zu erfolgen.

Now, therefore, you are hereby authorized to receive the above named
Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genannten
prisoner into your custody and detain him(her) in accordance with the
te(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen
sentence so imposed or until further order of this Tribunal or order
bis er (sie) die über ihn (a, n) verhängte Strafe abgebusst hat oder
of competent military authority, and for so doing this shall be sufficient
warrant.

zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt
Sie zur Vornahme der Handlung

Signed this 30. day of July, 1948

Gezeichnet am 30. Juli, 1948

Ernest J. G. [Signature]
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nurnberg, Deutschland



OFFICE OF MILITARY GOVERNMENT (US)
DIENSTSTELLE DER U.S. MILITÄRREGIERUNG

Legal Form No. 5

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nurnberg, Germany
Nürnberg, Deutschland

Case No. 6
Fall Nr. 6

COMMITMENT
EINLIEFERUNGSBEFehl

To: The Officer in charge of Landsberg Prison
An den Leiter der Landsberger Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(s) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one Paul Hoffinger
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Count II - (Plunder and Spoilation) ... Art. II - Plunderung und Ausbeutung

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF

of Two (2) years imprisonment
zu zwei Jahren Gefängnis

Alotted credit on said sentence for period of time already in custody verurteilt worden.
The said sentence to commence on 1 July 1947 (date).

Der Strafantritt hat am 1. Juli 1947 zu erfolgen.

Notwithstanding the above, the prisoner is hereby authorized to receive the above named
person's name is hereby authorized to receive the above named

Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genann

prisoner into your custody and detain him(her) in accordance with th

te(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen,

sentence so imposed or until further order of this Tribunal or order

bis or (sic) die über ihn (sie) verhängte Strafe abgebußt hat oder

of competent military authority, and for so doing this shall be suf

ficient warrant.

zuständigen Militärbehörde erhalten worden. Diese Urkunde ermächtigt

Sie zur Vornahme der Handlung.

Signed this 30 day of July 1947

Gezeichnet am 30. Juli 1947

Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nürnberg, Deutschland



OFFICE OF MILITARY GOVERNMENT (US)
DIREKTORAT DER U.S. MILITÄRREGIERUNG

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nurnberg, Germany
Nurnberg, Deutschland

Case No. 6
Fall Nr.

COMMITMENT
EINLIEFERUNGSBEFehl

To: The Officer in charge of ... Landsberg Prison
An den Leiter der Landsberger Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(s) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one Friedrich Jochen
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Count II - Plunder and Spoilation Art. II - Plünderung und Ausraubung

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF

of one and a half (1 1/2) years imprisonment
zu ein und ein halbes Jahre Gefängnisstrafe verurteilt worden.

The said sentence to commence on .. 20 April 1947 (date).

Der Strafantritt hat am 20. April 1947 (Datum) zu erfolgen.

Now, therefore, you are hereby authorized to receive the above named
Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genannt
prisoner into your custody and detain him(her) in accordance with the
to(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen
sentence so imposed or until further order of this Tribunal or order
bis er (sie) die über ihn (s-o) verhängte Strafe abgebusst hat oder
of competent military authority, and for so doing this shall be sufficient
bis Sie eine weitere Anordnung von diesem Gerichtshof oder von einer
warrant.

zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt
Sie zur Vornahme der Handlung

Signed this .. 20 .. day of July 1948

Bezeichnet am .. 20. Juli 1948

..... Charles G. Drake
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nurnberg, Deutschland



OFFICE OF MILITARY GOVERNMENT (US)
DIENSTSTELLE DER U.S. MILITÄRREGIERUNG

Legal Form No. 5'

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nurnberg, Germany
Nurnberg, Deutschland

Case No.
Fall Nr.

COMMITMENT
EINLIEFERUNGSBEFehl

To: The Officer in charge of Landsberg Prison
An den Leiter der Landsberger Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(s) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one Carl Krumm
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Count II, a, Plunder, and Spoilation Art. II, a, Plunderung und Ausbeutung

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF

of five (5) years imprisonment
zu Sechs Jahren Gefängnisstrafe verurteilt worden.

The said sentence to commence on 8 September 1945 (date).

Der Strafantritt hat am 8. September 1945 (Datum) zu erfolgen.

Now, therefore, you are hereby authorized to receive the above name
Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genann
prisoner into your custody and detain him(her) in accordance with t
te(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen
sentence so imposed or until further order of this Tribunal or orde
bis or (sic) die über ihn (sic) verhängte Strafe abgebußt hat oder
of competent military authority, and for so doing this shall be suf
bis Sie eine weitere Anordnung von diesem Gerichtshof oder von eine
ficient warrant.

zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt
Sie zur Vornahme der Handlung

Signed this day of July 194.
Geschiehet am 30. Juli 194.

.....
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nurnberg, Deutschland

ATTN:

.....
Secretary General



OFFICE OF MILITARY GOVERNMENT (US)
DIEZSTELLE DER U.S. MILITÄRREGIERUNG

Legal Form No. 5

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nurnberg, Germany
Nürnberg, Deutschland

Case No. 1
Fall Nr. 1

COMMITMENT
EINLIEFERUNGSBEFehl

To: The Officer in charge of Landsberg Prison
An den Leiter der Landsberg Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(s) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one Heinrich Oster
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Count II - Plunder and Spoilation Art. 11 c. Plünderung und Beutekunst

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF

of Two (2) years imprisonment

zu zwei Jahren Gefängnisstrafe verurteilt worden.

The said sentence to commence on 31 Dec 1945 (date).

Der Strafantritt hat am 31. Dec. 1945 (Datum) zu erfolgen.

Now, therefore, you are hereby authorized to receive the above named
Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genannten
prisoner into your custody and detain him(her) in accordance with the
te(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen
sentence so imposed or until further order of this Tribunal or order
bis or (sic) die über ihn (sic) verhängte Strafe abgebusst hat oder
of competent military authority, and for so doing this shall be sufficient
warrant.

zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt
Sie zur Vornahme der Handlung

Signed this 30 day of July 1945

Gezeichnet am 30. Juli 1945

Charles A. Shaw
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nürnberg, Deutschland



OFFICE OF MILITARY GOVERNMENT (US)
DIENSTSTELLE DER U.S. MILITÄRREGIERUNG

Legal Form No. 5

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF
Nurnberg, Germany
Nurnberg, Deutschland

Case No.
Fall Nr.
4

COMMITMENT
EINLIEFERUNGSBEFEHL

To: The Officer in charge of ... Landberg ... Prison
An den Leiter der ... Landberg ... Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(s) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one Karlmann Schmitt
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Section II - Plunder and Spoils ... Art. II - Plunderung und Ausbeutung

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF

of Four (4) years imprisonment

zu Vier Jahren Gefängnisstrafe verurteilt worden.

The said sentence to commence on ... 7 April 1945 ... (date).

Der Strafantritt hat am 7. April 1945 (Datum) zu erfolgen.

Now, therefore, you are hereby authorized to receive the above name
Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genan
prisoner into your custody and detain him(her) in accordance with t
te(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen
sentence so imposed or until further order of this Tribunal or orde
bis er (sie) die über ihn (sie) verhängte Strafe abgebusst hat oder
of competent military authority, and for so doing this shall be suf
bis Sie eine weitere Anordnung von diesem Gerichtshof oder von eine
ficient warrant.

zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt
Sie zur Vornahme der Handlung

Signed this 22 day of July 1945

Gezeichnet am ... 20. Juli 1945

Frederick C. Drake
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nurnberg, Deutschland



OFFICE OF MILITARY GOVERNMENT (US)
DIENSTSTELLE DER U.S. MILITÄRREGIERUNG

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nurnberg, Germany
Nürnberg, Deutschland

Case No. 1
Fall Nr. 1

COMMITMENT
EINLIEFERUNGSBEFEHL

To: The Officer in charge of Landsberg Prison
An den Leiter der Landsberg Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(n) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one Georg von Scholtzky
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Case II - Plunder and Spoilation ... Art. II - Plünderung und Ausbeutung
.....
.....

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF

of Five (5) years of Imprisonment
zu 5 Jahre Gefängnisstrafe verurteilt worden.

The said sentence to commence on ... 7 May 1948 (date).

Der Strafantritt hat am 7. Mai 1948 (Datum) zu erfolgen.

Now, therefore, you are hereby authorized to receive the above named
Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genannten
prisoner in, your custody and detain him (her) in accordance with the
te(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen
sentence so imposed or until further order of this Tribunal or order
bis er (sie) die über ihn (sie) verhängte Strafe abgebusst hat oder
of competent military authority, and for so doing this shall be sufficient
bis Sie eine weitere Anordnung von diesem Gerichtshof oder von einer
warrant.
zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt
Sie zur Vornahme der Handlung

Signed this 20 day July 1948

Committed am 20. Juli 1948

..... Charles G. Drake
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nürnberg, Deutschland



OFFICE OF MILITARY GOVERNMENT (US)
DIREKTORAT DER U.S. MILITÄRREGIERUNG

Legal Form No. 5

MILITARY TRIBUNAL VI
MILITÄRGERICHTSHOF

Nurnberg, Germany
Nürnberg, Deutschland

Case No. 1
Fall Nr. 1

COMMITMENT
EINLIEFERUNGSBEFEHL

To: The Officer in charge of Landsberg Prison
An den Leiter der Landsberger Strafanstalt
or any other prison or camp to which the prisoner may hereafter be
oder irgendeiner anderen Strafanstalt oder eines anderen Lagers, in
lawfully transferred:
welche(s) der (die) Strafgefangene späterhin rechtmässig überwiesen
werden wird:

Whereas one, Fritz ter Meer
Der (die) Verurteilte

has been convicted of the offense of
ist wegen der folgenden strafbaren Handlung

Count I - Plunder and Spoilation ... Art. II - Plünderung und Ausbeutung
Count III - Slavery and Mass Murder ... Art. III - Sklaverei und Massenmord

and has been sentenced by MILITARY TRIBUNAL VI to serve a sentence
schuldig erkannt und vom MILITÄRGERICHTSHOF

of Seven (7) years imprisonment
zu Sieben Jahre Gefängnisstrafe verurteilt worden.

The said sentence to commence on 7. Aug. 1945 (date).

Der Strafantritt hat am 7. Aug. 1945 (Datum) zu erfolgen.

Now, therefore, you are hereby authorized to receive the above name
Auf Grund des genannten Urteils sind Sie ermächtigt, den(die) genau
prisoner into your custody and detain him(hor) in accordance with t
te(n) Strafgefangene(n) in die Strafanstalt (das Lager) aufzunehmen
sentence so imposed or until further order of this Tribunal or orde
bis er (sie) die über ihn (sie) verhängte Strafe abgebusst hat oder
of competent military authority, and for so doing this shall be sui
bis Sie eine weitere Anordnung von diesem Gerichtshof oder von eine
ficient warrant.

zuständigen Militärbehörde erhalten werden. Diese Urkunde ermächtigt
Sie zur Vornahme der Handlung

Signed this 10 day of July 194

Gezeichnet am 10. Juli 194

Charles G. Hake
Presiding Judge - Vorsitzender

Military Tribunal VI
Militärgerichtshof

Nurnberg, Germany
Nürnberg, Deutschland



Orders of Military Governor of US Zone of Occupation re Sentences

Secretary General of Military
Tribunals
TTM/hg/42334 - 768

AG 000.5

Berlin, Germany
13 Nov 48

SUBJECT: Release of Paul Haefliger

TO : Prison Director
War Criminal Prison No. 1
APO 61, US Army

THRU: Commander-in-Chief
European Command
APO 757, US Army

Attention: Provost Marshal



Inclosed is an order signed by the Commander-in-Chief, European Command, and Military Governor, commuting the sentence imposed by Military Tribunal VI on Paul Haefliger to the time already spent in confinement and directing that he be released forthwith.

BY COMMAND OF GENERAL CLAY:

1 Incl: a/s

Telephone BERLIN 42334

G. H. GARDE
Lieutenant Colonel, AGD
Assistant Adjutant General

Communication: Dr. Haefliger, 3000, Berlin, 27 Nov 48, 10:00 AM



9004

COPY

HEADQUARTERS, EUROPEAN COMMAND
OFFICE OF THE COMMANDER-IN-CHIEF
APO 742
Berlin, Germany

7 November 1948

In the Case of The
United States of America

VS

Military Tribunal VI
Case No. 6

Carl Krauch, et al.

Order with respect to Sentence of Paul Haeffliger

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nuremberg, Germany, the defendant Paul Haeffliger, on 29 July 1948, was sentenced by the Tribunal to two years imprisonment, with the provision that he shall be allowed credit for the period of time already in custody, to wit, from 11 May 1945 to 30 September 1945, and from 3 May 1947 to the date of this judgment, both inclusive. A petition to correct the sentence, filed on behalf of the defendant by his counsel, has been referred to me. I have duly considered the petition, together with the favorable recommendation of the Acting Chief of Counsel for War Crimes and it appearing to my satisfaction that due to an error by Counsel in their stipulation to the Tribunal the periods mentioned in the sentence do not include all the time already spent by this prisoner in custody, it is hereby ordered, pursuant to Article XVII of Military Government Ordinance No. 7, that the sentence imposed by Military Tribunal VI on Paul Haeffliger be commuted to the time already spent in confinement and that he be released forthwith.

LUCIUS D. CLAY
General, U.S.A.
Commander-in-Chief, European Command
and Military Governor

WAR CRIMINAL PRISON No. 1

APO 178-A

US ARMY

29 November 1948

SUBJECT: Transmittal of Photostats.

TO : Court Archives,
Office of Secretary General of Military Tribunals
APO 696-A, US Army.

FILED

2 December 1948
Secretary General
for Military Tribunals
Nürnberg, Germany

1. Reference telephone conversation between Miss Mandellaub and the Prison director of this institution, forwarded herewith photostatic copies in duplicate, concerning the former inmate Paul HAEFLIGER who was released from this institution on 11 November 1948.

2. Request acknowledgement of receipt by indorsement hereon.

s/ Lloyd A. Wilson
LLOYD A. WILSON
Capt. CMP
Prison Director

3 Incls:

- (1) Order with respect to Sentence of Paul Haeffliger (Dupl.)
- (2) Letter of Transmittal (Dup.)
- (3) 1st Ind. (Dup.)

Tel: Landsberg 155

1st Ind

Office of Secretary General for Military Tribunals, APO 696-A, US Army.
3 December 1948

TO: Prison Director, War Criminal Prison No. 1, APO 178-A, US Army.

1. Receipt is acknowledged, as requested, of photostatic copies, in duplicate, of the file concerning Order with respect to Sentence of Paul Haeffliger.

FOR THE SECRETARY GENERAL:

DEFENSE NOTIFIED
19 Nov 1948
PROSECUTION NOTIFIED

S/ BARBARA SKINNER MANDELLAUB
Barbara Skinner Mandellaub
Chief, Court Archives

Nurnberg 61272, 61270

969

HEADQUARTERS, EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742

AJ 000.5 (LD)

Berlin, Germany
13 November 1948

SUBJECT: Release of Paul Haefliger

TO : Prison Director
War Criminal Prison No. 1
APO 61, US Army

THRU: Commander-in-Chief
European Command
APO 151, US Army

Attention: Provost Marshal



Inclosed is an order signed by the Commander-in-Chief, European Command, and Military Governor, commuting the sentence imposed by Military Tribunal VI on Paul Haefliger to the time already spent in confinement and directing that he be released forthwith.

By COMMAND OF GENERAL CLAY:

1 Incl: a/s

Telephone BERLIN 42334


G. H. GABLE
Lieutenant Colonel, AGD
Assistant Adjutant General

HEADQUARTERS, EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742
Berlin, Germany

In the Case of The
United States of America

7 November 1948

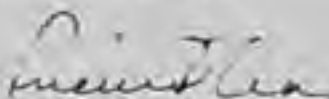
vs

Military Tribunal VI
Case No. 6

Carl Krauch, et al.

Order with respect to Sentence of Paul Haeffliger

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nuremberg, Germany, the defendant Paul Haeffliger, on 29 July 1948, was sentenced by the Tribunal to two years imprisonment, with the provision that he shall be allowed credit for the period of time already in custody, to wit, from 11 May 1945 to 30 September 1945, and from 3 May 1947 to the date of this judgment, both inclusive. A petition to correct the sentence, filed on behalf of the defendant by his counsel, has been referred to me. I have duly considered the petition, together with the favorable recommendation of the Acting Chief of Counsel for War Crimes and it appearing to my satisfaction that due to an error by Counsel in their stipulation to the Tribunal the periods mentioned in the sentence do not include all the time already spent by this prisoner in custody, it is hereby ordered, pursuant to Article XVII of Military Government Ordinance No. 7, that the sentence imposed by Military Tribunal VI on Paul Haeffliger be corrected to the time already spent in confinement and that he be released forthwith.



LUCIUS D. CLAY
General, U.S.A.
Commander-in-Chief, European Command
and Military Governor

000.5 PMG 1st Ind ORT/dc
Provost Marshal Division, Hq European Command, APO 757
22 November 1948

TO: Prison Director, War Criminal Prison No. 1, Landsberg,
APO 61-A, US Army.


1. Attached order confirms telephone conversation Captain
Wilson/Captain Thompson, 18 November 1948.

2. It is the understanding of this office that Haeffliger
was released from confinement on 11 November 1948 in com-
pliance with cable, V-36660, Office of Military Government,
Berlin, 7 November 1948.

FOR THE PROVOST MARSHAL:

1 Incl
n/c

Telephone Frankfurt 7101



G. B. DEVORE
Colonel Inf
Executive

FILED 15 March 1949

OFFICE OF MILITARY GOVERNMENT FOR GERMANY

Office of the Military Governor

APO 742

Berlin, Germany

Secretary General

for Military Tribunals

Defense Center

- 9 MAR 1949

AG 013.3 (ID)

SUBJECT: Orders Confirming Sentences in Case No. 6,
(Farben Case).

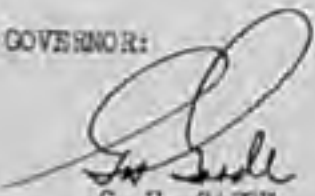
TO : Secretary General of Military Tribunals
Nuremberg
APO 696-A, US Army

There are inclosed herewith for inclusion in your records the orders confirming the sentences in Case No. 6, (Farben Case).

BY DIRECTION OF THE MILITARY GOVERNOR:

13 Incls: a/s

Telephone BERLIN 42457


G. H. GARDE
Lieutenant Colonel, AGO
Adjutant General



PROSECUTION NOTIFIED

DEFENSE NOTIFIED
15 March 1949

HEADQUARTERS, EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742

Berlin, Germany

MAR 4 1949

In the Case of The
United States of America

vs

Military Tribunal VI
Case No. 6

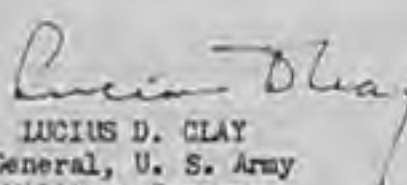
Carl Krauch, et al.

Order with Respect to Sentence of Otto Ambros

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Otto Ambros, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 8 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

a. the sentence imposed by Military Tribunal VI on Otto Ambros be, and hereby is, in all respects confirmed;

b. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief
European Command

HEADQUARTERS EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742

Berlin, Germany

MAR 4 1949

In the Case of The
United States of America

vs

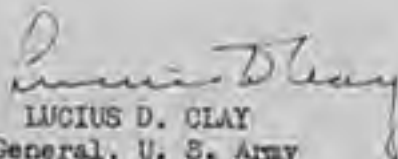
Military Tribunal VI
Case No. 6

Carl Krauch, et al.

Order with Respect to Sentence of Ernst Buergin

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Ernst Buergin, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 2 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

- a. the sentence imposed by Military Tribunal VI on Ernst Buergin be, and hereby is, in all respects confirmed;
- b. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief
European Command

HEADQUARTERS, EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742

Berlin, Germany

MAR 4 1949

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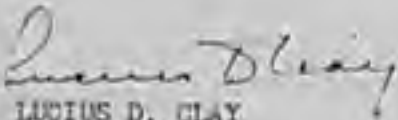
Carl Krauch, et al.

Order with Respect to Sentence of Heinrich Bueteifisch

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Heinrich Bueteifisch, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 6 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

a. the sentence imposed by Military Tribunal VI on Heinrich Bueteifisch be, and hereby is, in all respects confirmed;

b. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief
European Command

HEADQUARTERS, EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742

Berlin, Germany

MAR 1 1949

In the Case of The
United States of America

vs

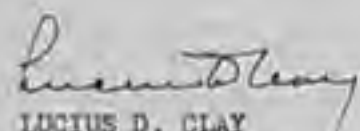
Military Tribunal VI
Case No. 6

Carl Krauch, et al.

Order with Respect to Sentence of Walter Duerrfeld

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Walter Duerrfeld, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 8 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

- a. the sentence imposed by Military Tribunal VI on Walter Duerrfeld be, and hereby is, in all respects confirmed;
- b. all time spent in confinement by the defendant be credited against such period of imprisonment: to wit from 9 June 1945 to date;
- c. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief
European Command

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Office of the Commander-in-Chief
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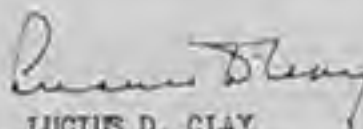
vs

Military Tribunal VI
Case No. 6

Carl Krauch, et al.

Order with Respect to Sentence of Paul Haeffliger

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Paul Haeffliger, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 2 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that the sentence imposed by Military Tribunal VI on Paul Haeffliger be, and hereby is, in all respects confirmed.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
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United States of America

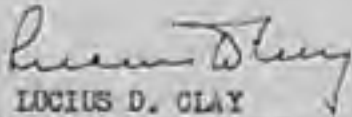
vs

Military Tribunal VI
Case No. 6

Carl Krauch, et al.

Order with Respect to Sentence of Max Ilgner

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Max Ilgner, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 3 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that the sentence imposed by Military Tribunal VI on Max Ilgner be, and hereby is, in all respects confirmed.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief
European Command

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MAR 4 1949

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United States of America

vs

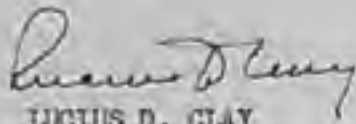
Military Tribunal VI
Case No. 6

Carl Krauch, et al.

Order with Respect to Sentence of Carl Krauch

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Carl Krauch, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 6 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

- a. the sentence imposed by Military Tribunal VI on Carl Krauch be, and hereby is, in all respects confirmed;
- b. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief
European Command

HEADQUARTERS, EUROPEAN COMMAND
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In the Case of The
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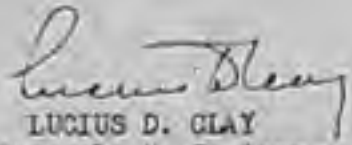
vs

Military Tribunal VI
Case No. 6

Carl Krauch, et al.

Order with Respect to Sentence of Hans Kugler

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Hans Kugler, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 1½ years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that the sentence imposed by Military Tribunal VI on Hans Kugler be, and hereby is, in all respects confirmed.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief
European Command

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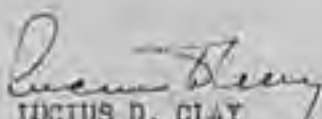
vs

Military Tribunal VI
Case No. 6

Carl Krauch, et al.

Order with Respect to Sentence of Heinrich Oster

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Heinrich Oster, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 2 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that the sentence imposed by Military Tribunal VI on Heinrich Oster be, and hereby is, in all respects confirmed.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
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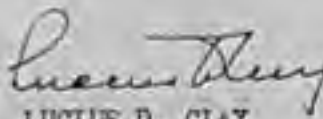
Carl Krauch, et al.

Order with Respect to Sentence of Hermann Schmitz

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Hermann Schmitz, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 4 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

a. the sentence imposed by Military Tribunal VI on Hermann Schmitz be, and hereby is, in all respects confirmed;

b. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief
European Command

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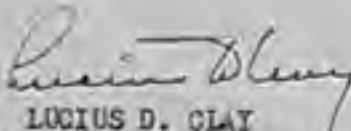
Carl Krauch, et al.

Order with Respect to Sentence of Georg von Schnitzler

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Georg von Schnitzler, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 5 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

a. the sentence imposed by Military Tribunal VI on Georg von Schnitzler be, and hereby is, in all respects confirmed;

b. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.


LUCIUS D. CLAY
General, U. S. Army
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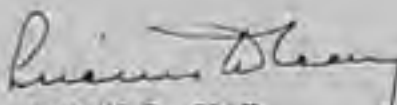
Carl Krauch, et al.

Order with Respect to Sentence of Fritz ter Meer

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Fritz ter Meer, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 7 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

a. the sentence imposed by Military Tribunal VI on Fritz ter Meer be, and hereby is, in all respects confirmed;

b. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.


LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief
European Command

MICROCOPY

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